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Legislative Audit Council

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The State of South Carolina
General Assembly
Legislative Audit Council
A Management Review
of the South Carolina
Health and Human Services
Finance Commission
October 7, 1987

THE STATE OF SOUTH CAROLINA

GENERAL ASSEMBLY

LEGISLATIVE AUDIT COUNCIL

A MANAGEMENT REVIEW

OF THE SOUTH CAROLINA

HEALTH AND HUMAN SERVICES FINANCE COMMISSION

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REPORT SUMMARY

Act 83 of 1983 created the Health and Human Services Finance Commission (HHSFC) to provide for a more effective and efficient delivery of health care and human service programs. This Act mandated that the administration, planning, and financing of health and human services programs be improved. The agency actually began operation in July 1984, and was only a little over two years old when this audit began. In its examination, the Council found problems with fiscal management and resource utilization.

During this audit, the Council found that HHSFC management has not fully complied with some state and federal laws, the state Appropriation Act, the Medically Indigent Assistance Act, the agency's enabling legislation, and agency policies. This report points out where appropriations were either: (1) improperly expended; (2) improperly managed; or (3) could be saved if recommendations outlined in this report are implemented. Appendix A on page 72 summarizes these problems. The following must be addressed by management.

Financial Management

HHSFC has not properly managed part of its $537 million budget. The agency reported inaccurate budget information to the Budget and Control Board and the General Assembly, overstated the extent of its potential budget deficit, and retained over $3 million in agency accounts which should have been reverted to the General Fund. In conflict with state law, the agency has increased rates to Medicaid providers, costing the Medicaid program millions of dollars and needlessly causing the agency to overexpend line item appropriations. The agency has also allowed some Medicaid debts and appealed audits to remain unresolved. These management decisions result in less funds available to

provide medical services for the poor. Major problems include:

- HHSFC did not present accurate information to the General Assembly concerning its $24 million projected Medicaid deficit. The agency did not properly report information indicating the deficit would be less (see p. 7).

- In violation of Section 159 of the FY 85-86 Appropriation Act, HHSFC maintained over $3.4 million in two accounts. These funds could be matched with federal funds to provide over $12 million to apply towards the reported $24 million deficit. While maintaining and not reporting this revenue, the agency requested exemption from mandated budget cuts to help resolve its projected deficit (see p. 7).

- HHSFC improperly raised inpatient hospital rates by approximately $14.6 million. Also, HHSFC improperly increased the rates for hospital outpatient services. This increase cost the Medicaid program $4.5 million. These increases caused the agency to overexpend line item appropriations and report a projected budget deficit (see p. 11).

- From July 1985 to January 1987, HHSFC paid over $188,000 in duplicate Medicaid claims, detected when providers refunded the payments. In addition, $4.6 million was erroneously paid because of a computer formatting error. The agency needs to correct problems with its Medicaid computer system which have caused improper payments (see p. 15).

- HHSFC has not adequately curtailed nursing home lease costs, including those which outside auditors documented were unreasonable. At least $1.4 million could be saved annually by disallowing increased Medicaid payments caused by 16 lease arrangements (see p. 17).

- The agency has not taken adequate steps to collect certain delinquent debts (those more than 90 days old). As of November 1986, over $3 million in Medicaid debts were delinquent; the amount which is collectible is unknown (see p. 19).

- HHSFC has not resolved over $3.3 million of nursing home and transportation audit appeals. Thirty-two audit decisions, appealed between 1981 and 1985, are awaiting HHSFC final action so that recoupment of these funds can begin (see p. 23).

- HHSFC has no policy or regulation to prevent nursing homes from changing ownership before resolving responsibility for their Medicaid debts. As a result, HHSFC may be unable to recoup Medicaid debts from nursing home owners who sell their businesses (see p. 25).

Management of Contracts

HHSFC's enabling legislation states that the agency must follow state laws when procuring services. A review of agency files indicates that HHSFC management has not complied with state laws and regulations. Further, internal policies have not been followed when entering into contracts. Some procurement problems have continued after warnings from state procurement auditors. Examples of problems noted include:

- Between January 1985 and October 1986, HHSFC did not report over $818,000 of sole source or emergency contracts to state officials as required by §11-35-2440 of the State Procurement Code (see p. 28).

- HHSFC's justification for sole source contracting has been inadequate. The agency has not solicited bids when other companies were available to provide services (see p. 28).

- Approximately $256,000 of noncompetitive contracts with state agencies were not reported with cost justifications as required by §11-35-1510 of the State Procurement Code (see p. 30).

- HHSFC has not reported amended contracts to proper state officials as required by procurement guidelines (see p. 32).

- Against HHSFC policy, contracts have been awarded without input or oversight from the agency's contract division (see p. 35).

- Contracts have not been adequately monitored by HHSFC. One contract, for over $570,000, mandated completion within six months. However, HHSFC amended the contract four times, extending the completion to 21 months. Management ordered payments to be expedited despite the fact that reports had not been submitted in a timely fashion. This is unfair to other bidders (see p. 35).

- HHSFC paid one contractor more than the contract allowed and at least 12 contracts were executed after their start date. Some contracts were not signed by HHSFC until the contracts were nearing expiration (see p. 37).

Management of Personnel Resources

HHSFC has violated state laws and regulations and agency practices in the management of personnel resources. The agency has not used positions as appropriated and constantly reorganizes its staff. For example:

- HHSFC has not completed the plans and resource allocations for programs it administers. These plans are required by §44-6-70 of HHSFC's enabling legislation (see p. 42).

- HHSFC has not used positions in the Third Party Liability (TPL) program as required. Six positions specifically appropriated by the Legislature to staff TPL have been used for other agency functions (see p. 43).

- HHSFC's internal audit department has not been functional. Audit positions provided by the General Assembly have been transferred to other departments. Also, the audit department had not been provided the independence necessary for objectivity (see p. 46).

- Since the agency's inception, HHSFC management has repeatedly reorganized its staff. Agency management has shifted, deleted, and reorganized departments, divisions, deputy directors, bureau chiefs, and other personnel. The agency has no long-range plan for properly organizing and utilizing its personnel. Constant reorganizations have a negative impact on the delivery of services and provider relations (see p. 49).

- An employee survey indicated that morale was low, the organizational structure does not promote efficiency, and communications need improvement. Also, employees indicated they liked and enjoyed their work and they are connected with an office which renders good service (see p. 58).

Some previously reported Medicaid problems were examined. For example, HHSFC has not followed recommendations to determine whether or not better Medicaid

computer services can be obtained at a lesser cost. The present system is outdated and costly to operate.

The management of public funds carries with it responsibilities to use these funds as mandated. This means complying with laws and regulations regarding their use and providing a complete accounting of agency activities and expenditures. Failure to fulfill these responsibilities means that the taxpayers and the General Assembly cannot be assured that funds of over $537 million are effectively spent to improve health and human services in the state.

The following chapters discuss, in detail, the management and operational deficiencies found during this audit of HHSFC. The terms Health and Human Services Finance Commission, HHSFC, and Commission are used interchangeably throughout this report. A glossary of technical terms is presented as Appendix C on page 77.

RECOMMENDATIONS

HHSFC SHOULD PREPARE A CORRECTIVE ACTION REPORT BY MARCH 1988. THIS REPORT SHOULD BE SUBMITTED TO THE HOUSE WAYS AND MEANS; SENATE FINANCE; HOUSE MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS; SENATE MEDICAL; AND HEALTH CARE PLANNING AND OVERSIGHT COMMITTEES; AND TO THE LEGISLATIVE AUDIT COUNCIL.

THE HHSFC CHAIRMAN SHOULD APPOINT A SUBCOMMITTEE OF COMMISSIONERS TO FORMALLY INVESTIGATE PERSONNEL PRACTICES, USE OF RESOURCES, PROCUREMENT PRACTICES, AND AGENCY COMPLIANCE WITH STATE AND FEDERAL LAWS.

INTRODUCTION

In 1983, the South Carolina General Assembly found that a unified planning system was needed to ensure that health and human services programs are carried out in the most efficient and effective manner. The Health and Human Services Finance Commission was created by Act 83 of 1983 to accomplish this for South Carolina. HHSFC became operational July 1, 1984.

Section 44-6-30 of the South Carolina Code of Laws states that the Commission shall administer the Medicaid (Title XIX) and Social Services Block Grant Programs, and specifically prohibits the Commission from the delivery of services. These programs were previously the responsibility of the Department of Social Services (DSS). HHSFC has also been designated as the South Carolina Center for Health Statistics to operate the Cooperative Health Statistics Program as required by the federal Public Health Services Act. In January 1986, HHSFC became responsible for the administration of the Medically Indigent Assistance Fund.

HHSFC's governing board consists of seven members, one from each congressional district and one from the state-at-large, who serve four-year terms. The General Assembly elects the members from the congressional districts, while the Governor appoints the at-large member.

For FY 86-87, HHSFC was appropriated $537,652,115, of which $91,350,784 (17%) was state funds. The agency was authorized 268 full-time equivalent employees; in February 1987, HHSFC had increased to 305 positions (see p. 40). Health Services programs accounted for $482,185,833 (89.6%) of the appropriation. The Medically Indigent Program, which is part of Health Services, was appropriated $15,227,834. The Human Services programs were appropriated $50,672,551 (9.4%), and administration and employee benefits received $4,793,731 (1%).

CHAPTER I
FINANCIAL MANAGEMENT

The following chapter outlines problems in the management of the agency's finances.

Inaccurate Budget Deficit Information

HHSFC provided the General Assembly and the Budget and Control Board inaccurate information and overstated its potential budget deficit for FY 86-87. In January 1987, the agency reported a potential deficit of $24 million. However, at least $4.4 million of this shortfall consisted of overpayments to hospitals. These payments should not have been included in the deficit projection because they were detected and would no longer be paid. Although the agency knew of these overpayments in January 1987, HHSFC did not reduce its projected deficit to account for the overpayments until March 1987.

When any agency does not properly report its financial status, state budget officials cannot adequately evaluate the extent of an agency's budget problems.

Revenue Not Reported to Budget Officials

HHSFC requested to be exempt from $2.4 million in budget cuts, while not reporting to budget officials it held $3.4 million in surplus, uncommitted funds. This $3.4 million, which agency officials knew was maintained in an agency account, could be matched with $9.39 million of federal funds to provide $12.79 million towards the agency's projected $24 million deficit.

Approximately one week after reporting a potential deficit, HHSFC officials stated they had found $2.9 million in state funds commingled in a federal account that could be used to help resolve the agency's deficit. (At this time, the agency still did not report it held over $500,000 of surplus revenue in other accounts.) The $2.9 million

received in FY 84-85 as part of a federal rebate had been placed in a federal account as opposed to the required earmarked account for rebates. Agency officials stated that staff turnover in the fiscal department caused them to "forget" the agency had this revenue. HHSFC then asked that this revenue be used to help alleviate the shortfall. After the Budget and Control Board allowed HHSFC to use the $2.9 million towards the deficit, agency reports projected a shortfall of $400,000 in state funds for FY 86-87. (After another budget cut and HHSFC service reductions, a potential deficit of $551,146 was reported.)

Other Revenue Accounts Not Examined

On February 10, 1987, HHSFC reported to the Budget and Control Board that a potential $400,000 deficit in state funds still existed. Despite having reported finding $2.9 million of state funds in one account two weeks earlier, HHSFC management did not order a financial review of other accounts to determine whether excess, uncommitted funds were available to be applied towards the deficit or to be returned to the General Fund. The Audit Council identified another account in which excess revenue of over $500,000 was carried forward for the last two fiscal years. In neither the January 1987 nor February 1987 Budget and Control Board meeting was this surplus revenue reported.

Revenue Not Reverted as Required

The $3.4 million in revenue maintained by HHSFC was not reverted, in prior fiscal years, to the General Fund as required by law. These funds were reimbursed by the federal government and another agency for expenditures in their behalf.

Section 159 of the FY 85-86 Appropriation Act requires that expenditures of state funds which are reimbursed by federal or other funds be returned to the General Fund. The

funds mentioned above were received when expenditures of state funds were reimbursed by federal and other funds.

Presently, it is to the advantage of state agency heads not to return excess revenue to the General Fund. Since there are no penalties for not returning funds, agencies can keep the funds until an emergency, such as a potential deficit, occurs.

RECOMMENDATIONS

HHSFC SHOULD REVERT TO THE GENERAL FUND ALL REIMBURSEMENTS FROM THE FEDERAL GOVERNMENT AND OTHER STATE AGENCIES WHEN REQUIRED BY LAW.

HHSFC SHOULD ENSURE THAT THE AGENCY PROVIDES ACCURATE INFORMATION CONCERNING REVENUES AND EXPENDITURES TO MEMBERS OF THE GENERAL ASSEMBLY AND THE BUDGET AND CONTROL BOARD.

THE GENERAL ASSEMBLY SHOULD CONSIDER ENACTING LEGISLATION TO PENALIZE AGENCY DIRECTORS WHO DO NOT REVERT REVENUE TO THE GENERAL FUND AS REQUIRED BY LAW.

On February 24, 1987, the agency provided the Budget and Control Board the results of its examination of all revenue accounts. This review was conducted after the Audit Council found revenue due the General Fund, and after the agency reported inaccurate budget information to the Budget and Control Board. HHSFC's study reported that almost $600,000 in excess revenue was due the General Fund.

THE BUDGET AND CONTROL BOARD SHOULD CONDUCT A REVIEW OF ALL STATE AGENCIES' EARMARKED REVENUE ACCOUNTS TO DETERMINE IF AGENCIES ARE RETAINING REVENUE DUE THE GENERAL FUND.

Hospital Reimbursement Rate Increases

The Medically Indigent Assistance Act (MIAA) of 1985 required that significant cost containment measures be taken in the methods used to reimburse hospitals for providing Medicaid services. One requirement was that HHSFC implement a prospective payment system (PPS) for hospital services. Another was that HHSFC implement cost containment measures including encouraging the use of outpatient services.

The Audit Council reviewed HHSFC management's efforts to implement these measures and found that the actions taken resulted in additional expenditures for hospital services of approximately $19 million. These implementation problems are discussed in the findings below.

Hospital Prospective Payment System

One objective of the MIAA was to pay fair and equitable rates in order to reduce "cost shifting" (costs paying patients are charged to cover costs for clients which are not covered by Medicaid). For inpatient hospital services, this objective was to be accomplished through the implementation of a prospective payment system. A PPS is designed to pay hospitals a fixed amount which is set in advance. Therefore, hospitals have an incentive to contain costs since they know the amount they will be paid and will, theoretically, work to keep costs below that amount.

The MIAA required that HHSFC institute a PPS for inpatient hospital services by October 1, 1985. Due to this time constraint, the Commission implemented the PPS in two

parts. An interim PPS was implemented on January 1, 1986 and the final PPS was implemented on December 1, 1986.

1. Rate Increase Contributes to Agency's Projected Deficit

Approximately three months after implementing the interim PPS, Commission management increased the reimbursement rates for inpatient hospital services by 15.5%. The increase cost the agency $14.6 million between January 1986 and November 1986. The increase was implemented before HHSFC officials realized they would not have sufficient funds to pay for it. In addition, the rate increase conflicted with previous management decisions not to adjust the rates and with state law establishing the PPS.

Section 44-6-140 of the South Carolina Code of Laws states that the prospective payment system is to contain certain elements including:

> ...a maximum allowable payment...which is preset at the beginning of the state's fiscal year and fixed for the entirety of the state's fiscal year. [Emphasis Added]

After implementation of the interim PPS, hospitals stated that they were being underpaid in comparison to the previous reimbursement system. HHSFC then contracted with the consultant who had implemented the interim PPS to compare payments under the old system to those under the interim PPS. The consultant found that payments under the interim PPS were lower than under the old system. The lower payments were due, in part, to the program changes that HHSFC management stated could not be fully considered under the interim PPS because of a lack of historical data and time constraints.

According to agency officials, the rate increase was a technical adjustment needed to provide a more equitable reimbursement rate. HHSFC officials stated they did not violate state law because the law was not intended to prohibit rate increases during the PPS's initial

implementation. However, there are no provisions in state law to allow the agency to amend rates during a fiscal year.

2. Increase Implemented Before Data Available

The 15.5% rate increase was executed before HHSFC had any data on the costs of program changes associated with implementation of the PPS. Had the agency waited, it would have received information showing insufficient funding for the increase. There was no historical data available on the effect of the program changes associated with the implementation of the PPS. However, it was estimated the changes would cost $9.75 million (this amount was appropriated by the General Assembly). Actual costs incurred for FY 85-86 were $17.1 million, 75% ($7.35 million) greater than expected. The 15.5% rate increase accounted for approximately $5.9 million of the total expenditures for inpatient hospital services for FY 85-86. HHSFC was able to pay these additional costs by using surplus MIAA funds made available due to a smaller than expected increase in additional Medicaid clients.

In FY 86-87, HHSFC was appropriated $105 million for inpatient hospital services. As of March 1987, HHSFC projected inpatient hospital services of $110 million. The 15.5% rate increase accounts for approximately $8.7 million in inpatient expenditures for FY 86-87. In a letter to the Audit Council dated April 17, 1987, HHSFC officials stated that they believed the 15.5% rate increase would keep the Commission within their line item. The letter stated, "We can assure you that had we thought that the line item would be exceeded, we would not have implemented the 15.5% adjustment."

3. No Commission Approval

The Executive Director of HHSFC implemented the interim PPS rate increase without the approval of the seven-member

Commission. There are no statutes, regulations, or agency policies which specifically require the board to vote on rate increases before they are implemented. However, the Commission should be informed and vote on decisions which substantially affect reimbursement rates, particularly those which could result in significantly increased expenditures.

Hospital Outpatient Rate Increase

HHSFC used funds appropriated under the Medically Indigent Assistance Act (MIAA) to raise the Medicaid reimbursement rate for hospital outpatient services. The rates were increased by 45% for the period September 1, 1985, to August 31, 1986, despite state law prohibiting hospital rate increases. This increase resulted in additional expenditures of approximately $4.5 million for hospital outpatient services. Also, the rate change was implemented without prior analysis to determine the necessity, impact, or potential cost savings to other programs.

The MIAA was enacted to expand the number of individuals served under the Medicaid program, and also to provide medical care for those individuals who do not qualify under the expanded Medicaid program. Section 44-6-140 of the South Carolina Code of Laws specifically states that cost containment measures are to be implemented in several areas including outpatient services. Also, §44-6-132 states that it is the intent of the General Assembly to "reduce where possible or maintain the current rate schedules of hospitals to keep costs from escalating." [Emphasis Added]

HHSFC officials stated the reimbursement rate was raised in order to encourage the use of outpatient services. Also, by increasing the rate, doctors would perform more procedures on an outpatient basis. Outpatient services are less costly than performing surgery in a hospital.

According to officials with HHSFC, no prior analysis was performed to determine the effect of raising the reimbursement rate on the number of clients using outpatient services. In addition, HHSFC did not try to estimate possible savings in other areas, such as hospital inpatient services, which might have resulted from an increased use of outpatient services. HHSFC could provide no evidence that raising the outpatient rate reduced inpatient expenditures. One year after increasing the rates, the agency reduced rates to their previous level through the implementation of a fee schedule.

Raising the rates was in conflict with the intent of the MIAA mandating the reduction or maintenance of hospital rate schedules and cost $4.5 million. HHSFC used $1.2 million of MIAA money and $3.3 million in federal matching funds to pay for the increased expenditures. These funds could have been used to pay for other Medicaid services or services for the indigent.

RECOMMENDATIONS

HHSFC MANAGEMENT SHOULD NOT IMPLEMENT RATE INCREASES THAT ARE IN CONFLICT WITH STATE LAW. THE GENERAL ASSEMBLY SHOULD AMEND §44-6-140 OF THE SOUTH CAROLINA CODE OF LAWS TO PROVIDE FOR CIRCUMSTANCES IN WHICH HOSPITAL INPATIENT RATES CAN BE ADJUSTED.

HHSFC SHOULD REFRAIN FROM IMPLEMENTING ANY RATE CHANGE UNTIL INFORMATION IS AVAILABLE ON THE NECESSITY OF THE CHANGE, THE BUDGETARY IMPACT, AND THE EFFECTS ON CLIENT UTILIZATION.

HHSFC MANAGEMENT SHOULD NOT IMPLEMENT RATE INCREASES WITHOUT THE PRIOR APPROVAL OF THE COMMISSION.

Improper Medicaid Payments

HHSFC administers the state's Medicaid budget of over $400 million annually. Errors made in the processing of claims are within the federal tolerance level. However, the following weaknesses in controls were noted in the payment of claims.

Duplicate Payments

HHSFC has paid duplicate Medicaid claims through the Medicaid Management Information System (MMIS). According to agency records, in FY 85-86, approximately $118,000 was identified by providers as payments known to have been made twice for the same service. An additional $70,000 in duplicate claims was paid between July 1986 and January 1987.

These claims were detected by providers who returned the payments notifying HHSFC that these services had been previously reimbursed. The following are examples of duplicate payments returned by providers.

- In March 1986, a hospital returned to HHSFC $11,834. The hospital informed HHSFC that a duplicate payment had been made, and it was refunding the money.

- In February 1986, a provider returned $6,731 to HHSFC. The provider stated that "the payments we received in February were duplicates of payments previously received."

- In August 1985, the internal audit department of one provider found 20 cases totaling over $6,000 that had been paid twice by HHSFC. The provider returned the duplicate payments to HHSFC.

HHSFC officials stated that the problem of duplicate payments can be traced back to when DSS administered the Medicaid program. These problems were transferred with the Medicaid claims processing system to HHSFC and have yet to

be corrected. Records indicate that the agency plans to study the problem, but there are higher priority projects.

Erroneous Payments

In January 1987, HHSFC overpaid providers because of a "computer formatting" error on computer billing tapes submitted to HHSFC by another organization. Because HHSFC's MMIS does not contain adequate safeguards, a routine data error was not detected. Payment checks for $9,200 per client were processed when only $492 should have been paid. (The $492 payment is a set amount HHSFC routinely pays to cover deductibles so that certain Medicaid clients can participate in Medicare, thereby saving state funds.) The error, amounting to $4.6 million, was detected when an employee familiar with the claims identified the high payments after they were processed. As of March 1987, HHSFC officials stated that all funds were recouped.

Section 44-6-40 of the South Carolina Code of Laws requires HHSFC "to continuously review and evaluate programs to determine the extent to which they are being operated cost effectively." Also, §44-6-70 mandates HHSFC to address specific attention to the "achievement of optimum cost effectiveness in administration and delivery of services."

Without adequate edits, checks, and balances for the payment of claims, HHSFC cannot adequately prevent duplicate and erroneous payments. The total loss to the Medicaid program could not be determined because all providers who receive improper payments may not refund overpayments to HHSFC.

RECOMMENDATIONS

HHSFC SHOULD IMPLEMENT NEEDED CONTROLS IN THE MEDICAID MANAGEMENT INFORMATION SYSTEM TO ENSURE THAT PROVIDERS ARE NOT PAID TWICE FOR THE SAME SERVICE.

HHSFC SHOULD ENACT NEEDED CONTROLS IN THE MEDICAID MANAGEMENT INFORMATION SYSTEM TO ENSURE THAT ERRONEOUS PAYMENTS CAN BE RECOGNIZED AND PREVENTED.

Nursing Home Leases

In a 1982 audit of DSS, the Audit Council found that DSS allowed nursing home owners to enter into business arrangements to lease their facilities. A policy was enacted by DSS that disallows increased lease costs for leases enacted after December 1981. This policy did not affect the leases mentioned below.

When a facility is leased, the owner is paid a certain amount by the lessee for lease payments. The lessee keeps any profits, and Medicaid costs increase to pay for lease payments that were nonexistent prior to the lease.

These arrangements cause increased costs to be passed on to the Medicaid program without improving patient care. In 1982, the Attorney General ruled that the state is under no obligation to fund these leases with Medicaid funds. After the Attorney General's Opinion, a private attorney studied the leases for HHSFC. In May 1985, the attorney recommended that HHSFC discontinue paying increased costs associated with leases.

In January 1986, HHSFC staff recommended discontinuing the payment of excess lease costs, and the State Plan for Medicaid was amended accordingly. In November 1986, the Commission voted to discontinue paying lease costs. However, in March 1987, the Commission voted to allow nursing homes to recoup 85% of their lease costs in FY 87-88 with further reductions in FY 88-89. No lease costs are to be allowed after July 1989.

In June 1987, a nursing home owner filed suit to prevent HHSFC from lowering lease payments. A temporary order was issued to prevent implementation of the reductions. The case has not yet been decided.

Leases Increase Medicaid Cost

The Council analyzed 16 lease arrangements (of the 32 leases in effect) and found Medicaid costs increased by $1.4 million annually after the leases went into effect. From July 1984 to December 1986 Medicaid costs increased $3.5 million just to pay increased lease costs. These costs do not provide additional patient care.

Medicaid reimburses a nursing home owner for building, equipment, and mortgage interest costs. When the facility is leased, Medicaid still pays these costs, plus the additional amount due to the lease. For example, one owner was reimbursed $47,191 per year for building, equipment, and mortgage costs. The owner then leased the facility for $241,617 per year. The increased cost of $194,426 is paid by Medicaid to the owner.

Lease Overpayments

In 1985, HHSFC contracted with Blue Cross/Blue Shield of South Carolina to determine the reasonableness, based on Medicare reimbursement cost principles, of two above mentioned nursing home leases. The examination, completed in December 1985, found these facilities were paid $105,000 per year more than Medicare considers reasonable. HHSFC did not take action on this report to determine if these facilities and others leased should have their payments reduced.

Section 44-6-40 of the South Carolina Code of Laws mandates the Commission to administer programs in the most effective and efficient way possible. Additionally, 42 Code of Federal Regulations §447.200 requires that payments be consistent with efficiency, economy, and quality of care. The payment of lease costs by HHSFC is not consistent with these laws.

When the Commission pays nursing homes more than reasonable rates, less money is available for other Medicaid services. Since 1981, based on Medicare regulations, these

two nursing homes have been overpaid approximately $500,000. These payments were made at a time when state agencies were mandated to reduce their expenditures due to revenue shortfalls.

When asked why overpayments have not been recouped, HHSFC stated that the review, for which HHSFC paid $8,000, may have been faulty. According to HHSFC, the study was not an appropriate document to identify overpayments or to be used as a basis for collection.

RECOMMENDATIONS

HHSFC SHOULD ESTABLISH AND IMPLEMENT A POLICY GOVERNING SALES OF NURSING HOMES. THIS POLICY SHOULD DISALLOW UNNECESSARY COSTS THAT DO NOT CONTRIBUTE TO PATIENT CARE.

HHSFC SHOULD FULLY IMPLEMENT ITS LEASE POLICY.

Debt Collection Needs Improvement

In its 1985 audit of DSS, the Audit Council examined debt collection procedures and found DSS was not adequately collecting delinquent Medicaid and welfare debts. Approximately $2.8 million in debts were 90 days old or older. The Council recommended that the General Assembly consider enacting legislation to garnish tax refunds and wages of those indebted to the state.

In July 1985, debt collection functions were transferred to HHSFC from DSS. As of November 1986, over $3.2 million owed HHSFC was delinquent for 90 days or more. Approximately $2.8 million of this amount was transferred from DSS. These debts caused by overpayments, fraud and abuse, and other reasons are owed by doctors, dentists, hospitals, nursing homes, and Medicaid recipients. Although

all of the debts may not be collectible, the following problems have not been adequately addressed by HHSFC.

Transportation Debts

HHSFC has not collected debts owed by transportation providers. Transportation providers transport Medicaid clients to obtain Medicaid services. Several problems were noted in this area.

- Records of four transportation providers, whose outstanding debts totaled $141,000, were forwarded to HHSFC's accounts receivable department in 1985. These debts have not been repaid.

- Three providers owe approximately $27,000 as a result of audits conducted between 1980 and 1983. HHSFC has not placed these debts on the accounts receivable system so that the collection process can begin.

- Audits conducted on one provider from 1977 to 1982, determined overpayments of approximately $71,000. An appeal was not requested by the provider. However, as of November 1986, HHSFC had not established these debts on the accounts receivable system.

- For an audit period dating back to 1975, six providers have audits under appeal to the agency's appeals division. However, HHSFC has not completed the appeals on these cases totaling over $870,000.

These problems have existed because HHSFC has yet to enact policies and procedures for the establishment of transportation debts on the accounts receivable system.

Granting of Special Terms

HHSFC has granted repayment terms to at least three nursing homes. This is a violation of its policy. HHSFC adopted a policy in April 1985 which discontinued the practice of extending credit to providers and clients. However, according to agency records, approximately $480,000 in debts were still allowed to be repaid on installments.

One nursing home was allowed to repay its $286,000 debt on an installment basis of six months without interest being charged. The only justification for this action was an

approval from an HHSFC official stating that "we should comply with request to show good faith--review of financials does appear to warrant special treatment."

Refund Issued to Nursing Home

In November 1986, the Executive Director halted the collection of a nursing home debt of $67,000 (later reduced to $37,000). After an appeal determined the amount owed, this debt was turned over to the agency's accounts receivable department. The collection department began recoupment proceedings and had collected over $10,000 of the debt. However, the Executive Director ordered these funds to be refunded to the nursing home although the facility had a legitimate debt owed HHSFC.

Recipient Debts

Welfare recipient (individuals receiving benefits from HHSFC) debts total approximately $740,000. However, until November 1986, there was no evidence HHSFC was attempting to collect these debts. At this time, HHSFC began sending notices to the recipients reminding them of their debts. In a sample of 19 of the 132 debts of more than $1,000, 2 (11%) were found to be repaying the state on an installment basis.

Collection by Outside Attorney

HHSFC has contracted with an outside attorney to collect delinquent Medicaid debts. This was done without first establishing policies and procedures for monitoring effectiveness, or deciding which cases should be forwarded for outside collection.

Lack of Detailed Policies and Procedures

Problems in debt collection have continued in part because HHSFC had not enacted <u>detailed</u> policies and

procedures pertaining to collection of debts owed the agency. The existing policy is one page and addresses limited issues. No policies pertain to:

- When to forward debts to the agency's collection department for collection.
- When enforcement procedures for delinquent accounts should be implemented.
- When refunds to providers with outstanding debts should be issued.
- What rate of interest on debts owed should be applied.
- How debts should be identified and established on the accounts receivable system.
- When cases should be forwarded to an outside attorney for collection.
- When payments should be withheld to repay a provider's debt.

HHSFC has not collected debts as required by Section 40 of the FY 85-86 Appropriation Act. This section mandates HHSFC to recoup Medicaid overpayments based on established collection policy.

Without written policies, agency officials are without guidelines for debt collection. Accountability declines when no enforceable mechanisms of collection are in place. These debts have gone uncollected at a time when the agency has reduced services to clients. In November 1986, agency officials stated HHSFC was in the process of establishing written policies for debt collection. According to agency officials, HHSFC has now adopted policies and procedures for debt collection.

RECOMMENDATIONS

HHSFC SHOULD DEVELOP DETAILED POLICIES AND PROCEDURES TO IDENTIFY ALL ACCOUNTS THAT ARE COLLECTIBLE. AFTER IDENTIFICATION, HHSFC SHOULD ESTABLISH AND COLLECT DELINQUENT MEDICAID DEBTS.

ALSO, A POLICY REQUIRING THAT INTEREST BE CHARGED ON ALL OUTSTANDING DEBTS SHOULD BE IMPLEMENTED.

HHSFC SHOULD ADHERE TO ITS POLICY OF NOT GRANTING TERMS FOR REPAYMENT OF MEDICAID DEBTS. IF CASES WARRANT SPECIAL TREATMENT, THE AGENCY'S POLICY SHOULD BE AMENDED.

HHSFC SHOULD AGGRESSIVELY PURSUE THE RECOUPMENT OF DEBTS OWED THE AGENCY.

Backlog of Appeals

HHSFC has not taken the necessary action to resolve a backlog of Medicaid audits under appeal. As a result of the backlog, a possible $3.3 million in audit disallowances has not been collected by the agency. HHSFC has an appeals section which resolves cases appealed by providers and recipients.

The Audit Council examined Medicaid audits appealed between 1981 and 1985. Of the 81 audits appealed during this period, 32 (40%) were not resolved as of December 1986. Of these unresolved cases, 29 were nursing home appeals and three were transportation provider appeals. The following are examples of unresolved cases.

- In February 1985, an appeal hearing was conducted for a nursing home appealing a Medicaid audit. Auditors stated that the nursing home owed the state approximately $440,000. The appeals division upheld the audit. However, as of December 1986, the appeals division was reviewing the proposed order and had not finalized the paper work to collect funds owed the state.

- In August 1985, an appeal hearing was conducted for a nursing home that auditors determined owed the state approximately $330,000. In December 1986, the case was referred for a proposed order, the order has not been written, and no funds have yet been collected.

- In September 1985, a 1984 case of a nursing home appeal was heard. Auditors determined the nursing home owed approximately $250,000 to the state. Recoupment of the debt was then ordered, but the order has not been written and no funds have been collected.

Appeals of audits have not been resolved because HHSFC has concentrated on client eligibility appeals. One HHSFC official stated audit cases have the lowest priority of all appeal cases even though they involve the most money. Priority has been given to client eligibility hearings because these cases are federally mandated to be heard within 90 days. HHSFC has contracted with 14 private attorneys for the last four months of FY 86-87 to hear appeals of eligibility cases. According to an HHSFC official, HHSFC staff will be used to help alleviate the backlog of other eligibility cases and audit appeals.

Section 44-6-40(3) of the South Carolina Code of Laws mandates HHSFC to:

> Continuously review and evaluate programs to determine the extent to which they meet fiscal, administrative and program objectives; and are being operated cost effectively.

When HHSFC does not handle appeals in an expeditious manner, providers have a greater incentive to appeal and less incentive to repay the state. Also, the state does not charge interest on the outstanding debt. If appeals were handled efficiently, auditors could be more effective because established precedents could be drawn upon at the hearings to help in future audits.

RECOMMENDATIONS

HHSFC SHOULD ENSURE THAT MEDICAID AUDIT APPEALS ARE RESOLVED IN A TIMELY MANNER.

HHSFC SHOULD CHARGE AN APPROPRIATE MARKET RATE OF INTEREST ON THE OUTSTANDING DEBTS UNDER APPEAL. THIS

RATE SHOULD BE CHARGED UNTIL THE
APPEALED AMOUNT IS REPAID HHSFC.

Debts Remaining After Change of Ownership

Hospitals or nursing homes have changed ownership prior to repaying debts owed to HHSFC. This has occurred since HHSFC has no policies or regulations which address responsibility for repayment of Medicaid debts. As a result, HHSFC has been unable to recoup Medicaid overpayments from nursing home owners who sold their businesses.

For example, the State Auditor found one nursing home owed HHSFC $278,000. The owner was notified of the debt, but then sold the assets of the nursing home and excluded the liabilities from the sale. Neither the new owner nor the previous owner claim responsibility for the debt and HHSFC has yet to recoup the funds.

Section 44-6-70 of the South Carolina Code of Laws mandates HHSFC to achieve optimum cost effectiveness in the administration of services provided. If HHSFC does not address this problem, nursing homes, hospitals, and other providers can continue to change ownership before properly resolving responsibility for their debts. Georgia recognized this problem and has taken corrective action. Georgia's Department of Medical Assistance regulations require that when a nursing home changes ownership all prior Medicaid debts become the sole responsibility of the new owner. When asked about this problem, HHSFC legal counsel stated legislation may be required to specifically address the responsibility of debts when facilities change ownership.

RECOMMENDATIONS

HHSFC SHOULD TAKE IMMEDIATE STEPS TO
ENSURE THAT RESPONSIBILITY IS ASSIGNED

FOR DEBTS OWED AFTER A MEDICAID FACILITY CHANGES OWNERSHIP.

THE GENERAL ASSEMBLY SHOULD CONSIDER ENACTING LEGISLATION WHICH SPECIFICALLY ASSIGNS MEDICAID DEBT RESPONSIBILITY WHEN A BUSINESS CONTRACTING WITH HHSFC CHANGES OWNERSHIP.

Loss to State Not Minimized

HHSFC did not take advantage of the federal government's offer to reduce an audit disallowance. As a result, the state repaid all $900,000 of a Medicaid debt when an offer to negotiate with the federal government for a reduced repayment was not accepted by HHSFC.

In 1983, a state audit found one nursing home did not keep documentation to support Medicaid reimbursements. When the audit demanded repayment of approximately $1.2 million ($900,000 federal and $300,000 state) to the Medicaid program, the facility declared bankruptcy. Because the state remains responsible for repaying the federal share, $900,000 was owed by HHSFC to the federal government. Yet, federal officials realized that the nursing home did incur costs for caring for Medicaid clients and requested both DSS and HHSFC to have an additional audit performed "in order that the state's disadvantage be minimized." In March 1985, HHSFC repaid the $900,000 without attempting to reduce the liability. While the agency may not have been able to reduce the liability, there is no evidence that an attempt was made.

RECOMMENDATION

HHSFC SHOULD ENSURE THAT ALL MEASURES TO SAVE STATE FUNDS ARE TAKEN WHEN ALLOWED BY THE FEDERAL GOVERNMENT.

CHAPTER II
MANAGEMENT OF CONTRACTS AND PROCUREMENT

HHSFC, in administering the state's Medicaid and Social Service Block Grant programs, is mandated to enter into and monitor contracts with other agencies and providers. In its audit of HHSFC, the Legislative Audit Council reviewed and found problems with the agency's contract and procurement functions relative to state and federal law. This review came after a 1986 Procurement Audit and Certification report by General Services. The report indicated that substantial progress had been made. However, the Council found that problems still occur, as described in this chapter.

Noncompliance With Procurement Laws

The South Carolina Consolidated Procurement Code (Procurement Code) and related regulations govern contracts for goods or services entered into by state agencies, regardless of the source of funds. The purposes of the Procurement Code are to:

- require the adoption of competitive procurement laws and practices by units of state and local governments;
- ensure the fair and equitable treatment of all persons who deal with the procurement system of this state; and
- provide increased economy in state procurement activities.

Further, HHSFC is specifically mandated by its enabling legislation to comply with the provisions of the Procurement Code and to contract for all services. The agency also contracts for some functions.

The Audit Council reviewed HHSFC's management of administrative and consultant contracts as categorized by the Commission. A total of 66 such contracts, which were either signed or took effect between January 1, 1985 and December 31, 1986, were examined. Of the 66 contracts, problems were found with 32 (48%), as are discussed below.

Sole Source or Emergency Contracts Not Reported

HHSFC has not reported some sole source and emergency procurements to state procurement officials as required by law. A review of HHSFC and the Materials Management Office (MMO) of the Budget and Control Board files indicates that 8 of 18 (44%) contracts totaling over $818,000 entered into between January 1, 1985 and September 30, 1986 had not been reported. Records of MMO indicate that HHSFC, during this time, reported 10 of 18 administrative and consultant contracts for a total of approximately $65,618. (One of these eight was for an hourly rate, and the total dollar amount could not yet be determined.)

Section 11-35-2440 of the Procurement Code requires governmental bodies to submit a quarterly report listing all sole source and emergency procurements to MMO. These reports are needed for external oversight and postprocurement review.

Justifications for Sole Source Contracts

In at least four instances, in violation of state law, HHSFC has either not justified sole source procurements in writing or has inadequately justified them.

1. Inadequate Justification for Sole Source Contracts

In at least two cases, HHSFC's justification statements for not obtaining bids for a particular service were unwarranted. According to §11-35-1560 of the Procurement Code, a procurement should only be sole sourced if the agency "...determines in writing there is only one source for the required supply, service or construction item."

In the case of one contract for over $375,000 after amendments, the justifications for a sole source procurement included:

- A good working relationship had existed between agency staff and the consultant for over 13 years.

- In the past, the consultant had been supportive of the agency (then DSS) in controversial issues, and there had never been a conflict over decision making authority between the consultant and the agency.

- Only one other regional body had capabilities similar to the consultant but withdrew from the contract because of a conflict over final decision making authority.

The sole source statement did not include the one required element--that this consultant was the only possible source for this service.

In the case of another contract, a memorandum in the agency's files states:

> ... since 'X' is no longer performing this function for Medicare, I am not sure if we can continue to contract with 'X' as a sole source after June 30, 1986. We may have to develop a RFP [request for a proposal from potential contractors] and put the contract on bid.

However, this contract was renewed and later extended as a sole source. By July 9, 1986, the agency determined that another provider had been selected to perform the same function for the federal government. The contract was not signed by HHSFC until two months after the agency determined there was at least one other potential supplier of the service.

2. "After the Fact" or No Justification

According to the Procurement Code, an agency's procurement director or designee must determine, in writing, whether a procurement is to be made as a sole source. In the case of one 1986 contract, the justification was signed after the date of the contract. In one other instance, no sole source justification was found in the files.

Contracting With Other State Agencies

HHSFC has not reported to the Materials Management Office (MMO) noncompetitively procured contracts totaling over $256,000 with other state agencies. A review of HHSFC files for January 1985 through September 1986 reveals that six administrative and consultant contracts with other state agencies were not submitted to MMO with the required cost justification.

Section 11-35-1510 of the Procurement Code requires that "...unless otherwise provided by law, all state contracts shall be awarded by competitive sealed bidding." In November 1984, the Budget and Control Board exempted contracts between state agencies from competitive bid requirements "...provided a cost justification is submitted to the Division in advance." According to the Chief Procurement Officer of MMO, HHSFC has not submitted cost justifications before awarding any contracts to state agencies.

According to HHSFC staff, the agency has not reported such contracts because they interpret regulations to allow all contracts with other state agencies to be exempted from the reporting requirements. This is not supported by the Procurement Office of MMO or by the Office of Audit and Certification's 1986 audit of HHSFC.

Procurement Laws for Accountant Contracts

HHSFC, in entering into or amending four contracts with three different CPA firms, has not complied with state statutes and regulations.

1. Contracts for Financial and Compliance Audits

HHSFC has contracted for accounting services without prior approval by the State Auditor as required by law. Section 11-35-1250 of the South Carolina Code of Laws provides:

> No contract for auditing or accounting services shall be awarded without the approval of the State Auditor except where specific statutory authority is otherwise provided.

In one instance, HHSFC entered into and then amended a contract prior to obtaining approval by the State Auditor. The State Auditor did not approve the contract until March 5, 1986, two months after its effective date. The maximum reimbursement approved by the State Auditor was $47,000. Yet, the contract was amended, and the total allowable reimbursement was increased to $61,945 on January 25, 1986. This amendment was executed prior to approval of the original contract in March 1986. According to agency documents and the State Auditor's Office, the amended total has not been approved by the State Auditor (see p. 37).

On two previous occasions in 1985, HHSFC entered into contracts with accountants before obtaining approval. In its retroactive approval of one of these contracts, the State Auditor noted, "In the future, this approval must be obtained in advance." However, the file contained no State Auditor's approval for a follow-up contract with one of these consultants.

2. Contracts for Accounting Consultant Services

HHSFC has not always followed proper procedures when contracting for consulting services rendered by accounting firms. Contracts for financial and compliance audits are exempt from the competitive bid requirements of the Procurement Code. As specified in the Budget and Control Board exemption of July 13, 1982, "certified public accountants ... engaged to perform financial and/or compliance audits, subject to approval by the State Auditor's Office" are exempt. [Emphasis Added] The exemption differentiates these audits from other types of work performed by accountants such as "actuarial audits and

other accounting services." Contracts for the latter type of work are to be procured in accordance with the Procurement Code.

HHSFC has not competitively procured contracts for nonfinancial or noncompliance audits. For example, the agency did not competitively procure one contract for the design and implementation of an audit department and two contracts for the development of a manual.

MMO officials and the State Auditor's Office confirmed that contracts like these are not exempt from the competitive bid requirements of the Procurement Code. Budget and Control Board Regulation 19-445.2105 governing sole source procurements specifies that, "In cases of reasonable doubt, competition should be solicited."

Procedures for Amending Contracts

In at least three instances, HHSFC has amended or extended sole source contracts without notice to the proper state authorities. These problems are discussed below.

1. Sole Source or Emergency Procurements

HHSFC has not reported sole source contract amendments or extensions to MMO. MMO instructs agencies that if a sole source contract is amended to change the duration of the contract or the amount of reimbursement the change should be included in an amended quarterly report to MMO.

HHSFC has extended one large contract twice without reporting these changes to MMO. The rate of reimbursement was increased with each extension with no change in the scope of services. On September 30, 1986, the 12-month contract was extended for three months. The total compensation was raised approximately 37% (rather than a 25% proportional increase) to $212,884. A pro rata increase would have brought the total to $194,055, a difference of $18,823.

On December 30, 1986, executive management of HHSFC amended the 15-month contract to extend it for six more months with no change of services. The compensation was increased 77% (rather than a 40% proportional increase), from $212,884 to $376,412. If the contract had been extended at the rate in effect during the prior extension, the total compensation would be $298,032, a difference of $78,380. Neither of these extensions was reported to MMO as required by law.

The following extensions also were not reported to MMO.

- One contract effective July 1, 1986 through September 30, 1986, was extended to December 31, 1986, for $19,500 additional compensation.

- In another case, the termination date of a contract entered into July 1, 1985 was extended by four months, and the total reimbursement was raised by $23,300.

2. Competitively Procured Contracts

In another instance, HHSFC amended a competitively procured contract under circumstances not in accordance with state procurement procedures. A contract for $462,749, including professional fees and travel, was awarded to a CPA firm. The contract took effect on October 28, 1985. Another accounting firm responded to this RFP (request for proposal) with a bid of $429,294. However, the contract was not awarded to the lower bidder, and the following amendments were not properly handled.

On November 25, 1985, less than a month after the contract became effective, the terms of the contract were substantially altered. Changes included an extension of the completion date by three months (to July 31, 1986) and an increase of the maximum possible reimbursement by $105,000. No bidders were given the opportunity by HHSFC to compete for a contract containing these amended terms. The contract completion date was later extended to September 30, 1986, October 30, 1986, and June 30, 1987, when the original

contract allowed only up to six months for completion (see p. 35).

According to the State Procurement Office, except in the case of "drastic, unforeseen circumstances," a contract should not be amended in any significant way after the bid has been awarded. If there is a major change in the terms and conditions of the contract, the contract should be cancelled and bids resolicited. The facts and circumstances of each case must be considered when determining if an amendment is warranted. One factor to be considered is whether or not other bidders would be disadvantaged by the later changes. Another factor considered is how early the contract is amended. The earlier the change, the less likely it is to be considered an unforeseen circumstance.

RECOMMENDATIONS

HHSFC SHOULD SUBMIT CORRECTED SOLE SOURCE AND EMERGENCY PROCUREMENT REPORTS TO MMO AND SHOULD TAKE STEPS NECESSARY TO ENSURE THAT FUTURE REPORTS ARE ACCURATE AND TIMELY.

HHSFC SHOULD PROPERLY JUSTIFY SOLE SOURCE CONTRACTS. WHEN IN DOUBT, HHSFC SHOULD COMPETITIVELY PROCURE SERVICES.

HHSFC SHOULD SUBMIT FOR MMO APPROVAL THE COST JUSTIFICATION FOR CONTRACTS WITH STATE AGENCIES THAT ARE NOT COMPETITIVELY PROCURED. SUCH JUSTIFICATIONS SHOULD BE SUBMITTED PRIOR TO THE AWARD OF THE CONTRACT.

HHSFC SHOULD CONSULT WITH MMO PRIOR TO AWARDING CONTRACTS IF THERE IS ANY

UNCERTAINTY CONCERNING THE APPLICATION
OF A STATUTE OR REGULATION.

Noncompliance With Agency Policies and Procedures

In addition to state and federal procurement regulations, HHSFC has enacted standard operating procedures for contracts. These procedures are approved by the Executive Director. However, HHSFC management has not followed agency internal procedures for contracting, as illustrated below.

Contracts Division Not Involved

During 1986, at least two administrative consultant contracts, described below, were entered into without proper input from the Contracts Division.

- A request for proposal (RFP) was developed, and proposals were received by HHSFC executive staff rather than by the Contracts Division.
- Another contract with the consultant referred to above was prepared without involvement of the Contracts Division.

HHSFC standard operating procedures specify that the Contracts Division "shall be responsible for the development of contracts."

Problems With Contract Administration

Agency management has not effectively monitored one consultant contract of over $570,000. By allowing for numerous extensions to the contract, HHSFC has not obtained the services for which it has bargained. Section 44-6-50(4) of the South Carolina Code of Laws requires HHSFC to, "Monitor and evaluate all contractual services authorized pursuant to this chapter." According to HHSFC officials, no one was in charge of monitoring this contract for at least six months in violation of agency procedures. An official at the State Auditor's Office also stated this contract has

not been monitored. Contract administration problems discussed below involve one specific contract.

1. Not Adhering to Timetable

HHSFC has not compelled a consultant to comply with the terms of the agency's RFP, the consultant's proposal, and the resulting contract between the two parties. The consultant's proposal stated:

> We are committed to adherence to the time schedule included in the RFP for provision of these services. However, we believe that our work plan can substantially accelerate the time schedule through subcontracting.

Prior to selection of the successful bidder, HHSFC, in a letter to the State Auditor, stressed that further delays in awarding the contract could cause the agency tremendous problems. The letter also pointed out that the RFP allowed up to six months to ensure timely completion.

Despite these factors, the contract completion date has been extended four times, changing a six-month contract into a 21-month contract. By November 12, 1986, after the October 31, 1986 expiration date of the contract, one final report of the 85 required to be issued had been submitted. According to the contract recipient, 42 draft reports had been submitted, but lack of staff at HHSFC prevented review of the reports in a timely manner.

2. Extension of Expired Contract

In January 1987, the Contracts Division was instructed by a manager in the agency to extend the contract until June 30, 1987; however, this contract had expired in October 1986. Documentation in the Contracts Division files indicates that the manager ordering the extension was informed that a terminated contract could not be amended. He was also informed that a new contract would require prior approval by the State Auditor, certification of funds, and a

new contract document. Despite this, the contract was extended.

Although all terms of the contract had not been met by January 21, 1987, payments to this consultant have been expedited. When the Contracts Division was instructed to extend the expired contract, they were also requested to "walk" the amendment through the system "as we are holding an invoice which should be paid." The consultant's bill was submitted, and paid by HHSFC, for work performed when there was no contract in effect.

Payments Exceeding Contract Amount

HHSFC has paid a consultant more than the total contract price allowed. According to agency records, the contractor was paid $51,045, although the contract and the State Auditor's approval letter allowed a maximum of $47,400. Although the contract was amended to $64,000, agency records do not indicate that payment of over $47,400 was authorized at the time the payment was made.

Contracts Signed After Effective Date

The Legislative Audit Council examined at least 12 contracts, or extensions to contracts, which were signed by the Executive Director after the effective start-up date in violation of agency policy. In other instances, the signature pages of the contracts were not dated, making it impossible to determine if the contracts were signed at the appropriate time. The following examples are illustrative.

- A contract was to be in effect for the time period of July 1, 1986 through September 30, 1986. Services were performed without a contract until an October 22, 1986 internal memorandum pointed out this situation.

- A contract amendment effective on November 25, 1985, was not signed by HHSFC until May 30, 1986, one month after the previous extension expired.

By not signing a contract prior to its effective date, particularly if either party has begun work under it, the

agency risks legal difficulties should either party be dissatisfied with the other's performance.

Contracts Executed Before Funds Certified

Internal agency procedures require that the Director of Fiscal Affairs approve the amount and source of funds (referred to as certification) as part of the contract request process. In a review of agency files, the Council noted at least two instances in which contracts have been entered into before funds were certified, contrary to agency internal policies. In one of these cases, the funds were not certified until after the expiration of the contract.

Conclusion

Management actions that weaken internal procedures threaten the integrity of the contract formation and monitoring function which HHSFC is statutorily mandated to perform. When procedures are not followed, the agency faces possible sanctions by state and federal monitoring agencies.

RECOMMENDATIONS

HHSFC SHOULD NOT ENTER INTO CONTRACTS WITHOUT THE DIRECT PARTICIPATION OF THE CONTRACTS DIVISION.

HHSFC SHOULD REVIEW AND STRENGTHEN PROCEDURES FOR COMMUNICATION AMONG ITS DIVISIONS TO ENSURE ADEQUATE MONITORING OF AND FISCAL CONTROLS FOR CONSULTANT CONTRACTS.

Noncompliance With Small and Minority Business Plan

HHSFC has not fully complied with statutes pertaining to small and minority business. HHSFC did not submit required quarterly reports for FY 84-85, although a Minority Business Enterprise (MBE) Utilization Plan was submitted to

and approved by the Small and Minority Business Assistance Office (SMBAO). An MBE Utilization Plan was submitted for both FY 85-86 and FY 86-87. However, these plans did not receive written approval from SMBAO. Additionally, quarterly reports were not provided to SMBAO for the first half of FY 85-86 as required. The SMBAO has received the first two quarterly reports for FY 86-87.

Section 11-35-5240 of the Procurement Code, which governs the use of minority businesses, states:

> (1) In order to emphasize the use of minority small businesses, each agency director shall develop a Minority Business Enterprise (MBE) Utilization Plan.
>
> (2) MBE utilization plans shall be submitted to the SMBAO for approval not later than July thirtieth, annually. Progress reports shall be submitted to the SMBAO not later than ten days after the end of each fiscal quarter.

In its 1986 Procurement Audit and Certification, the Division of General Services stated that HHSFC had never filed quarterly reports to SMBAO. General Services recommended that HHSFC file the required reports dating back to the agency's inception in 1984.

RECOMMENDATION

HHSFC SHOULD COMPLY WITH §11-35-5240 OF THE SOUTH CAROLINA CODE OF LAWS CONCERNING THE DEVELOPMENT AND IMPLEMENTATION OF A MINORITY BUSINESS ENTERPRISE UTILIZATION PLAN.

CHAPTER III

MANAGEMENT OF PERSONNEL RESOURCES

The Audit Council reviewed the use of personnel resources and found that, while the agency has increased in size, certain improvements are needed in order to increase agency efficiency and effectiveness.

Analysis of Agency Growth

The Medicaid and Social Services Block Grant programs were transferred from DSS to HHSFC in 1984. In order to administer these programs, HHSFC received 237 full-time equivalent employees (FTEs) from DSS.

Between July 1984, when HHSFC became operational, and February 1, 1987, the number of FTEs for DSS and HHSFC combined had increased from 3,987 to 4,567. This is an increase of 580 FTEs or 14.5%. The 580 FTEs can be divided into three categories: (1) FTEs appropriated to DSS or HHSFC to implement new programs that did not exist prior to July 1, 1984; (2) FTEs given DSS or HHSFC to expand existing programs; and (3) FTEs transferred to DSS or HHSFC to perform the duties previously performed by other state agencies (see Table 1).

TABLE 1

ANALYSIS OF EMPLOYEE GROWTH FOR DSS AND HHSFC

FROM JULY 1, 1984 THROUGH FEBRUARY 1, 1987

Description of FTEs	DSS	HHSFC	TOTAL
Total authorized FTEs after separation into two agencies, July 1, 1984.	3,750	237	3,987
FTEs for new programs.	191	25	216
FTEs to expand existing programs.	260	27	287
FTEs transferred to perform duties previously performed by another state agency.	61[1]	15	76
Total FTEs, February 1, 1987.	4,262	305[2]	4,567[2]

[1]Net increase, DSS received 66 FTEs from the Attorney General's Office (AG) but transferred one back to the AG. In addition, four other FTEs were transferred to the Department of Health and Environmental Control.

[2]HHSFC could not account for the placement of one FTE; therefore, column total is not correct.

Source: Interviews with DSS officials, Analysis of Change reports for FY 84-85, FY 85-86, and FY 86-87, Budget and Control Board memos on agency adjustments to FTE authorization.

The number of FTEs which were received for new programs included: 125 (100 for DSS and 25 for HHSFC) to implement the Medically Indigent Assistance Act; 67 to DSS to establish the Medically Needy program under Medicaid; 18 to DSS to establish the Work Support Service Delivery program; and six to establish the Child Care Food program.

The number of FTEs which DSS received for existing programs included: 82 to expand the Child Support Enforcement program; 77 to expand the Child Protective Services program; 69 to expand the eligibility determination staff in the counties; 11 to expand the Community Long Term Care program; seven to expand the Child and Family Service program; 11 to expand the Early Periodic Screening, Diagnostic and Treatment (EPSDT) program; and three for additional administrative support for DSS.

The number of additional FTEs HHSFC received for existing programs included: ten for the Third Party Liability program (see p. 43); seven for the accounting and receivables function; three for the EPSDT program; four for administrative support; and three for Internal Audit (see p. 46).

Programs were transferred to DSS. As a result, DSS received 66 FTEs from the Attorney General's Office to perform the legal function associated with the Child Support Enforcement Program. DSS transferred one back to the Attorney General's Office. In addition, DSS transferred four to DHEC which now performs the licensing functions for boarding homes.

HHSFC received FTEs for programs transferred to it which included: five to administer to High Risk Channeling Project and one to assist the Medical Care Advisory Committee; seven to perform Health Planning; one which was used in Internal Audit; and one position for use in the Community Long Term Care program.

Preparation of State Plans

HHSFC has not prepared state plans for programs administered by the agency, as required by law. These plans are needed to assist the Commission in establishing priorities and allocating over $500 million in resources appropriated by the General Assembly.

Section 44-6-70 of HHSFC's enabling legislation requires the Commission to prepare plans and resource allocations for each program assigned to it. HHSFC has completed an interim plan for Medicaid. However, according to agency officials, a June 1987 deadline for the final Medicaid plan will not be met.

HHSFC staff provided several reasons for delays in completing the Medicaid plan. First, executive management experienced difficulty in establishing a planning position and did not hire a Medicaid planner until October 1985, more than one year after the agency became operational.

Second, agency management changed their basic approach for managing certain programs after the relevant portions of the plan had been developed. For example, after the section on Third Party Liability had been written, executive management decided to contract out certain aspects of this function. A third factor delaying completion of the Medicaid plan was a need for planning staff to deal with unexpected budget cuts.

The agency has a plan for the SSBG program which is one of the human service programs. It does not have a plan for the entire range of human service programs, but proposes to have a draft plan in October 1987 and a final human services plan April 1988.

Completion of the human services plan has been delayed for several reasons. A question had been raised about whether HHSFC had the authority to produce not just the Social Services Block Grant plan but a plan for all of the human services programs.

According to HHSFC, another factor for the delay was the Reorganization Commission's decision not to conduct a needs assessment for the human services. Because of this, HHSFC staff has had to conduct its own statewide needs survey. Staff turnover at HHSFC also delayed the human services planning process.

HHSFC was created specifically to be a planning and monitoring agency for health and human services programs. HHSFC has not complied with the mandate of its enabling legislation almost three years after becoming operational. Furthermore, in a time of budgetary shortfalls, it is important for the agency to be able to use the planning process to set agency-wide priorities.

RECOMMENDATION

HHSFC EXECUTIVE MANAGEMENT SHOULD MAKE THE PLANNING PROCESS A HIGH PRIORITY IN ORDER TO ACCELERATE COMPLETION OF THE MEDICAID AND HUMAN SERVICE PLANS.

Third Party Liability

Federal law specifies that Medicaid be the payor of last resort for medical services. The Division of Third Party Liability (TPL) is responsible for determining if a Medicaid client has other resources, such as private insurance benefits, to pay his medical bills. The General Assembly has provided HHSFC resources to improve the operation of TPL. However, the following problems still exist.

Use of Positions

HHSFC management has moved to other areas of the agency or improperly used 6 (55%) of 11 positions appropriated by the Legislature for use in TPL. This is a violation of the FY 85-86 Appropriation Act.

Section 40 of the FY 85-86 Appropriation Act specifically appropriated ten new positions, requested by HHSFC, for the Division of Third Party Liability. In addition, one of the 25 positions given HHSFC under the Medically Indigent Assistance Act (MIAA) was to be used in TPL. According to 42 Code of Federal Regulations (CFR) §433.138, "The agency must take reasonable measures to determine the legal liability of third parties to pay for services." In an April 1985 letter to the Senate Finance Committee requesting ten positions for TPL, the Executive Director stated:

> Recent audits performed by the Legislative Audit Council and the Regional Office staff have identified numerous deficiencies in the Third Party Liability Program related directly to understaffing. [Emphasis Added]

A consultant report prepared in November 1985 states, "Third Party Liability is critically understaffed and cannot perform its mandated function."

By not staffing TPL as required by the General Assembly, funds due the state will not be recouped. In a May 1985 letter to the Senate Finance Subcommittee on HHSFC, the Executive Director stated:

> With the Subcommittee's recommendation to provide additional staff in the Commission's Third Party Liability Program, revenue estimates have been revised. It is anticipated that the recovery for FY 85-86 will be approximately $2,000,000 in state funds. [Emphasis Added]

The General Assembly funded the TPL positions for only three-fourths of the fiscal year. As a result, the amount of recovery would have been reduced to $1,500,000. In FY 85-86, HHSFC recovered approximately $450,000 in state funds through the TPL program. This was approximately $1 million less than estimated.

According to HHSFC officials, five of the ten appropriated positions were transferred because a cost avoidance computer system which would have generated work for the positions was not implemented. This was due to problems with the transfer of the Medicaid Management Information System (MMIS) from the Department of Social Services (see p. 64). Once the MMIS transfer was complete, the five vacant positions were to be returned to TPL. However, these positions have not been transferred back because another priority item involving maintenance of the accounting system arose. "In summary," HHSFC officials stated to the Audit Council, "the intended use of positions for TPL had been delayed because of basic Agency priority shifts."

Cost Avoidance System Not in Place

HHSFC has not established a cost avoidance system in the Third Party Liability Program. This is a violation of federal law pertaining to TPL.

A cost avoidance system rejects Medicaid claims that could be paid by another insurer and requires other insurers to pay the claims, thereby saving Medicaid funds. Agency officials stated that an interim cost avoidance system would be started in April 1987. A complete system is scheduled for December 1987.

State Medicaid agencies are required by 42 CFR 433.139 to use cost avoidance methods for processing claims involving TPL on or after May 12, 1986. According to federal officials, HHSFC has neither complied with the law nor requested a waiver. In its 1985 report on DSS, the Legislative Audit Council recommended implementation of a cost avoidance system.

In FY 85-86, HHSFC was appropriated $100,000 ($10,000 state and $90,000 federal) to begin implementing a cost avoidance system in TPL. HHSFC did not spend the funds during FY 85-86 and the funds lapsed to the General Fund.

HHSFC now estimates the earliest a complete cost avoidance system will be in place is December 1987. According to documents prepared by HHSFC staff in April 1985, an estimated $3 million per year is not being recovered by the Division of Third Party Liability. A June 1986 Advanced Planning Document (APD) estimates that for the period FY 87-88 through FY 92-93 a properly instituted TPL program could save approximately $46 million more.

RECOMMENDATIONS

HHSFC SHOULD USE APPROPRIATED POSITIONS AS MANDATED BY THE GENERAL ASSEMBLY.

HHSFC SHOULD IMPLEMENT A COST AVOIDANCE SYSTEM FOR THIRD PARTY LIABILITY.

Office of Internal Audit

Agency management had not established a functional Office of Internal Audit. The following problems were found.

Staffing of Internal Audit

HHSFC had not staffed the Office of Internal Audit with the audit positions specifically appropriated in the FY 85-86 Appropriation Act. Section 44-6-40 of the South Carolina Code of Laws states that HHSFC shall:

> Continuously review and evaluate programs to determine the extent to which they: (a) meet fiscal, administrative, and program objectives; and (b) are being operated cost effectively.

The General Assembly in the FY 85-86 Appropriation Act provided HHSFC with four new auditor positions.

On August 2, 1985, the Office of Internal Audit contained five audit positions (one position had been established previously). As of December 31, 1986, HHSFC had

removed three audit positions from Internal Audit, leaving two auditors and one clerical employee. Two auditors were moved to other areas within the agency. The third was reclassified into a clerical position in Internal Audit.

Independence of Internal Audit

HHSFC's Office of Internal Audit has not had the independence necessary to operate effectively. The Office of Internal Audit has reported to a council whose programs and functions are audited by the Office of Internal Audit. The committee consisted of three deputy directors in charge of all agency programs and operations, the personnel director, and the agency's general counsel.

In order to be as effective as possible, the auditing function of an agency must be separated from programs subject to audit. The United States Comptroller General Audit Standards state, in part:

> To help achieve maximum independence, the audit function or organization should report to the head or deputy head of the government entity and should be organizationally located outside the staff or line management function of the unit under audit. [Emphasis Added]

Access to Information

The Office of Internal Audit had not been provided with some information and agency documents needed to determine program effectiveness. Agency personnel have denied auditors access to documents pertaining to methods used to establish nursing home rates. According to HHSFC officials,

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A March 1987 Commission organization chart shows that staffing of the Office of Internal Audit has increased to include four auditors and one clerical position. This office now reports to the Executive Director. Between July 1985 and March 1987, the Department reported to a "council."

information denied the internal auditor did not pertain to an assigned audit.

HHSFC Standard Policy 85-24 which outlines the responsibilities of Internal Audit requires the office to "...'assess' whether the commission is carrying out its responsibilities according to statutory and regulatory requirements of the many health and social programs." Without access to agency documents, the Office of Internal Audit cannot fulfill its mandate.

Consultant Recommendations

HHSFC paid a consulting firm $23,700 to develop an audit plan and make recommendations for the design and function of the Office of Internal Audit. In June 1986, the consultant presented HHSFC with a two-year plan of programs to be audited by June 30, 1988. The plan listed in priority order the audits that should be performed and gave an estimate of the staff time needed to complete each audit. The consultant also recommended that a staff of ten auditors implement the audit plan and that the Office of Internal Audit report directly to the Executive Director.

As of January 1, 1987 none of the audits listed in the consultant's audit plan had been started. Additionally, management had reduced the number of auditors in the Office of Internal Audit from five to two (see p. 46).

Consultant Hired to Review Previous Reports

In July 1986, HHSFC hired a consultant to review previous Audit Council reports to determine if the agency had complied with the prior recommendations. HHSFC paid $1,900 for this service. However, HHSFC has an internal audit staff which could have performed this service.

According to agency officials, the consultant was hired because of his prior experience (the individual is a former employee of the Audit Council) and because their own

internal audit department was "preoccupied and could not devote the time necessary to perform the review."

The consultant's hiring took place less than one week after an auditor position was removed from the Office of Internal Audit. Another position had been removed less than five weeks earlier (see p. 46). It took the consultant approximately two weeks to complete his review.

RECOMMENDATIONS

HHSFC SHOULD ENSURE THAT A FUNCTIONAL OFFICE OF INTERNAL AUDIT IS MAINTAINED. THE INTERNAL AUDIT DEPARTMENT SHOULD REPORT TO THE EXECUTIVE DIRECTOR AND HAVE ACCESS TO ALL AGENCY RECORDS.

ALL INTERNAL AUDIT REPORTS SHOULD BE SUBMITTED TO THE EXECUTIVE DIRECTOR AND THE COMMISSION MEMBERS.

HHSFC SHOULD USE STAFFING AS MANDATED BY THE GENERAL ASSEMBLY.

Reorganizations of the Commission

HHSFC's management has not provided a stable organizational structure for its employees. Since the agency's inception, HHSFC staff has been repeatedly reorganized by management. Agency management has shifted and deleted departments, divisions, deputy directors, bureau chiefs, and agency personnel.

Section 44-6-120 of the South Carolina Code of Laws requires HHSFC to develop an "efficient and cost effective organizational structure" in the performance of the agency's duties. However, the Council found that HHSFC has no long-range plan for organizing or utilizing its personnel.

The Audit Council analyzed the organization charts beginning with the operational structure approved for the

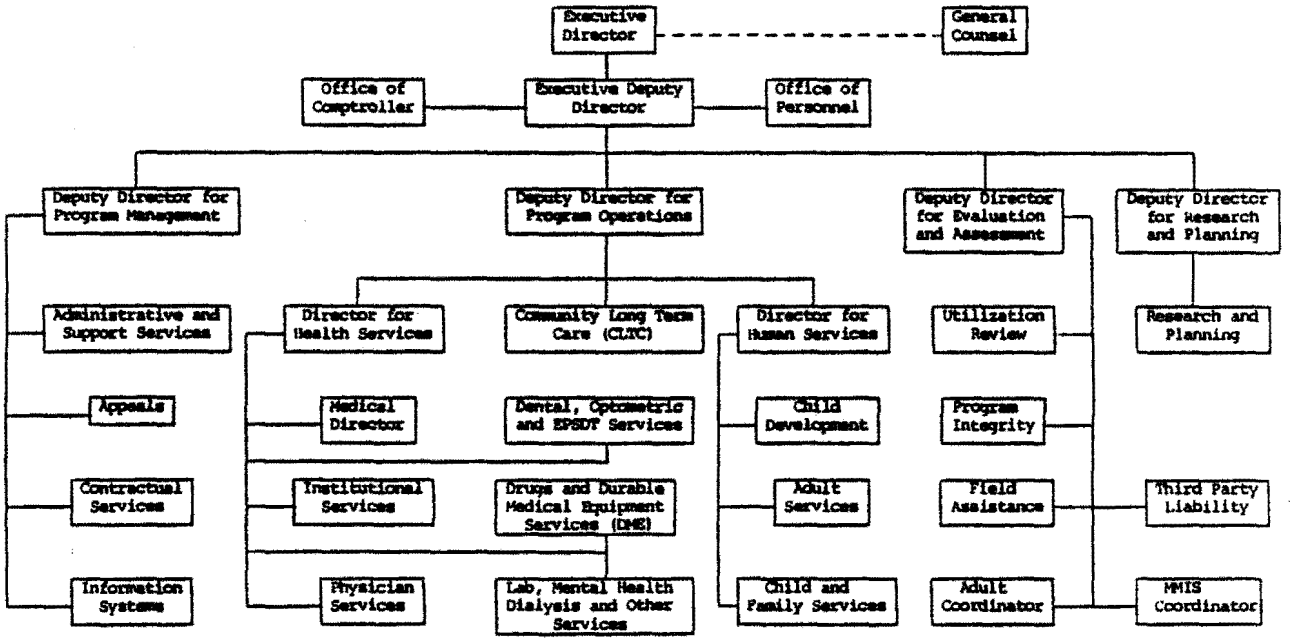
transfer from DSS through March 4, 1987. The following is a summary of some of the organizational changes.

Recommended Organization

The General Assembly created a transition team to ease and coordinate the change of responsibilities from DSS to HHSFC. This team approved an organizational structure which was not established by the agency (see Chart 1).

CHART 1

RECOMMENDED TRANSITIONAL ORGANIZATION



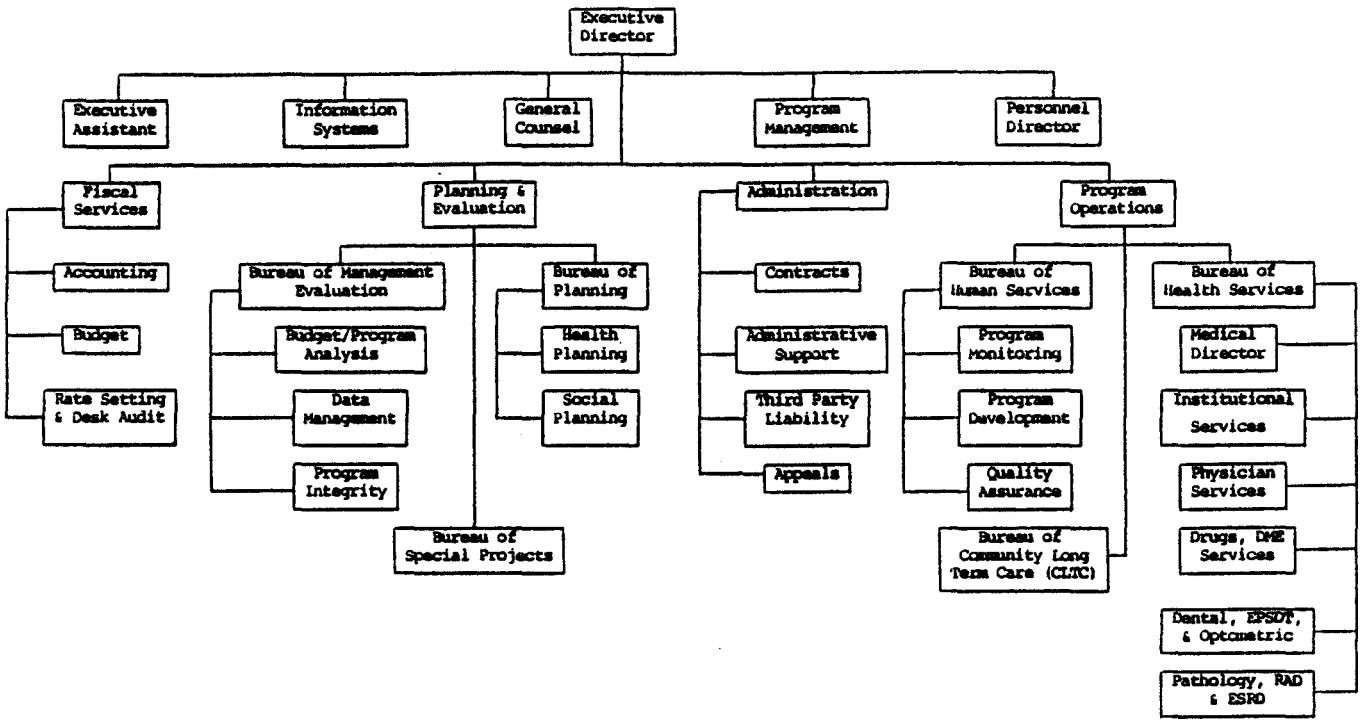
Source: "A Plan for Implementation of the State Health and Human Services Finance Commission," Transition Committee, State Health and Human Services Finance Commission, September 7, 1983.

Beginning Organization - June 1984

In June 1984, the Executive Director of HHSFC organized the agency contrary to the approved structure (see Chart 2). This beginning organization structure was a "shell" with proposed positions for future growth. At this time the position of Executive Deputy Director was eliminated. This resulted in the Executive Director having direct supervisory responsibility for eight divisions.

CHART 2

BEGINNING ORGANIZATION - JUNE 1984

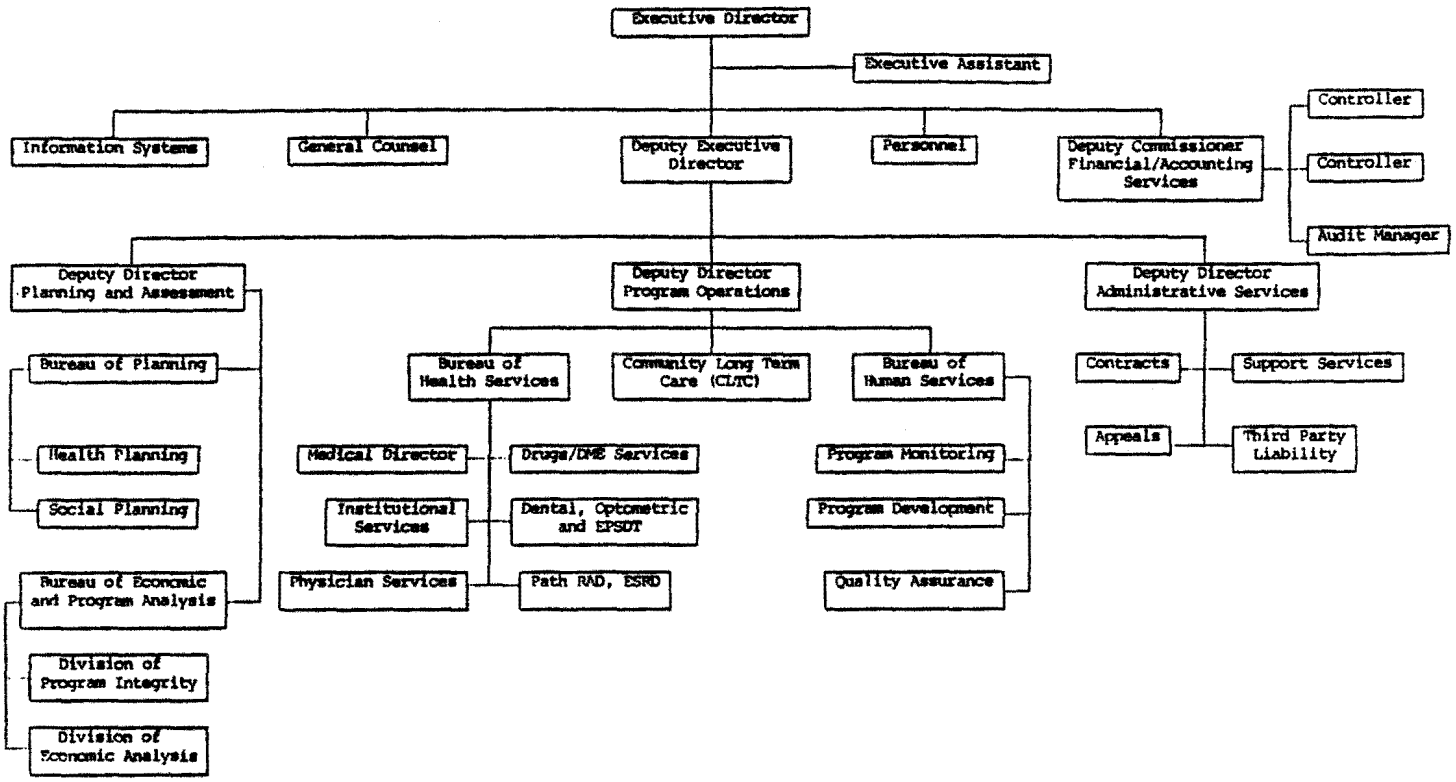


Source: Health and Human Services Finance Commission Personnel Office.

August 1984

Two months after establishing the first functional organization, the agency was reorganized. The position of Deputy Executive Director was established as recommended by the Transition Team. The Deputy Executive Director assumed responsibility for Administrative Services, Planning and Assessment, and Operations (see Chart 3).

CHART 3
COMMISSION ORGANIZATION - AUGUST 1984



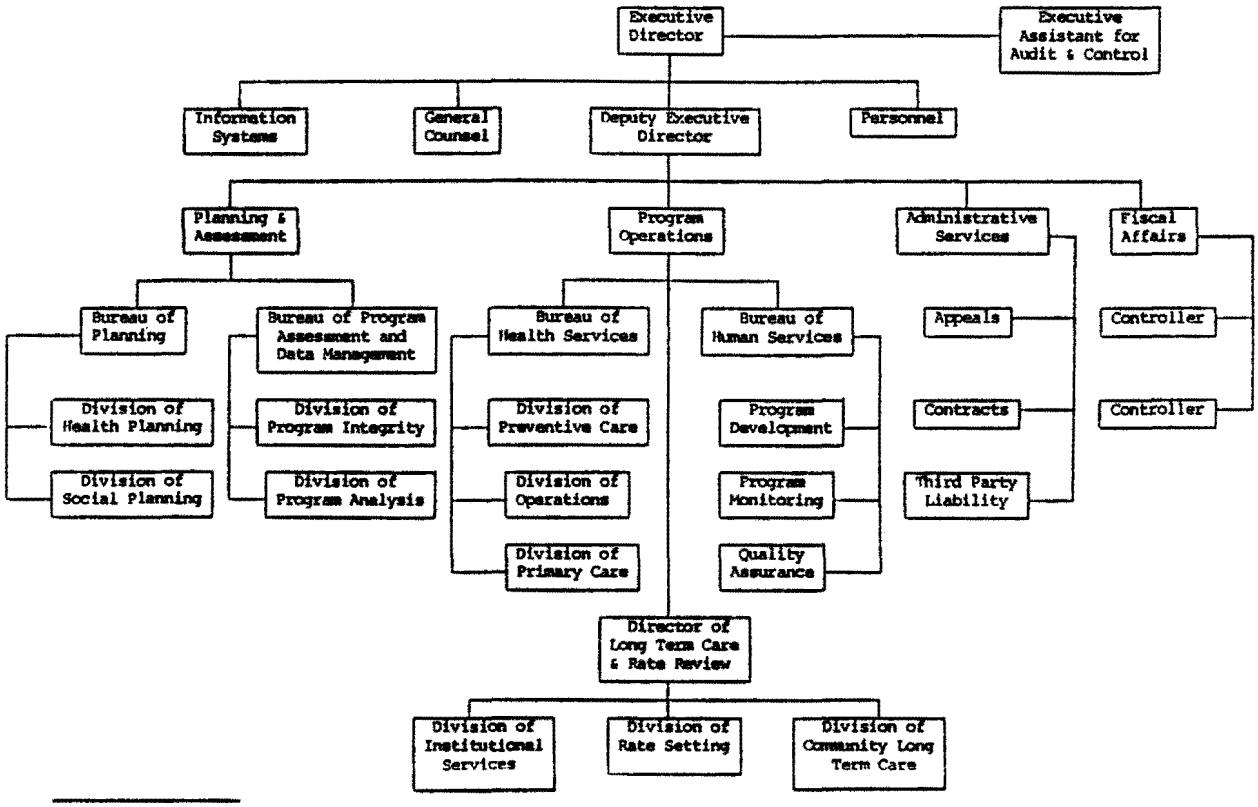
Source: Health and Human Services Finance Commission, Personnel Office.

Significant Structural Changes Between August 1984 and January 1985

The Office of the Executive Director changed in several ways. Reporting responsibility for Fiscal Affairs was moved to the Deputy Executive Director away from the Executive Director and was established as a separate division. The position of Executive Assistant for Audit and Control was created which reported to the Executive Director. Support Services, which had been a distinct division of Administrative Services, was deleted. Some programs within the Bureau of Health Services were combined (see Chart 4).

CHART 4

COMMISSION ORGANIZATION - JANUARY 1985



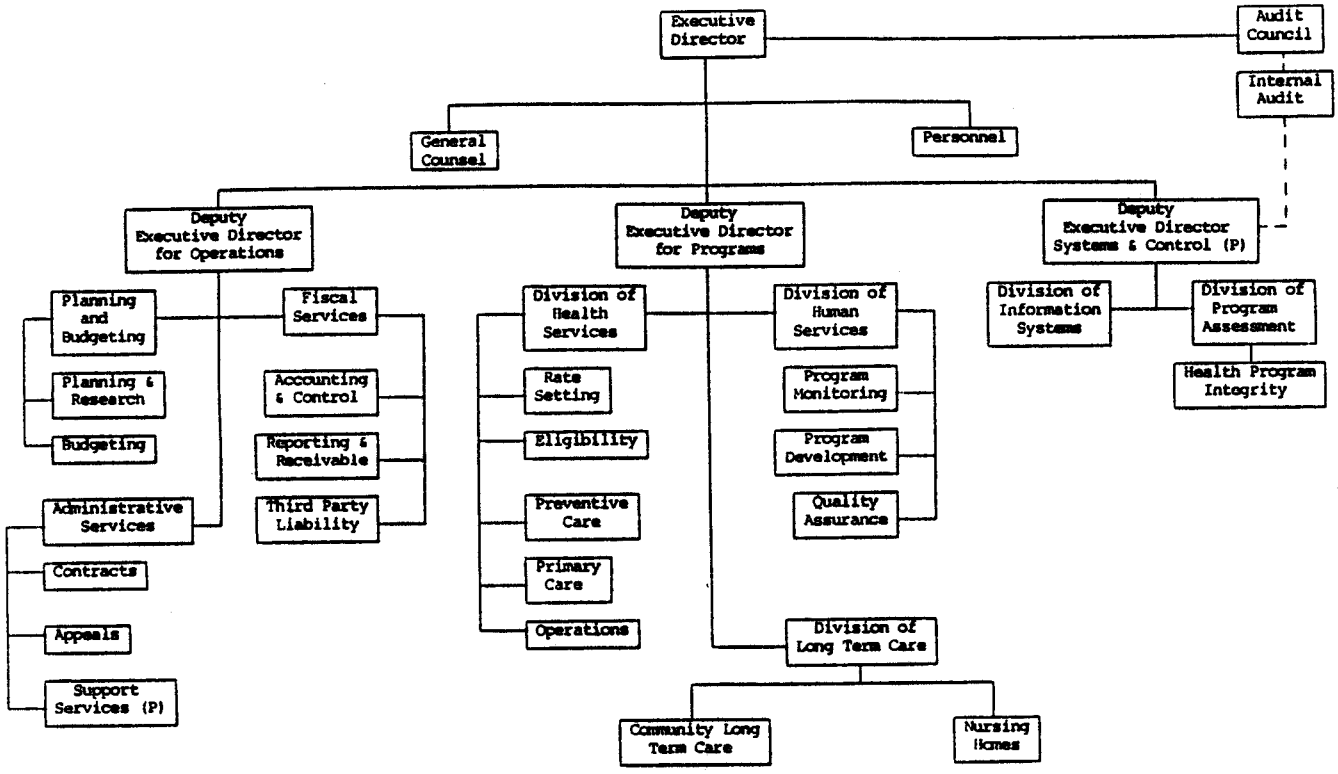
Source: Health and Human Services Finance Commission Personnel Office.

Significant Changes Between January 1985 and July 1985

Major restructuring took place again during this time period. These changes took place after HHSFC hired a consultant to make recommendations as to the agency's organizational structure. Information Systems was moved from supervision of the Executive Director to the proposed Office of Systems and Control. Agency functions were shifted to three Deputy Executive Directors who replaced a single Deputy Executive Director (see Chart 5).

CHART 5

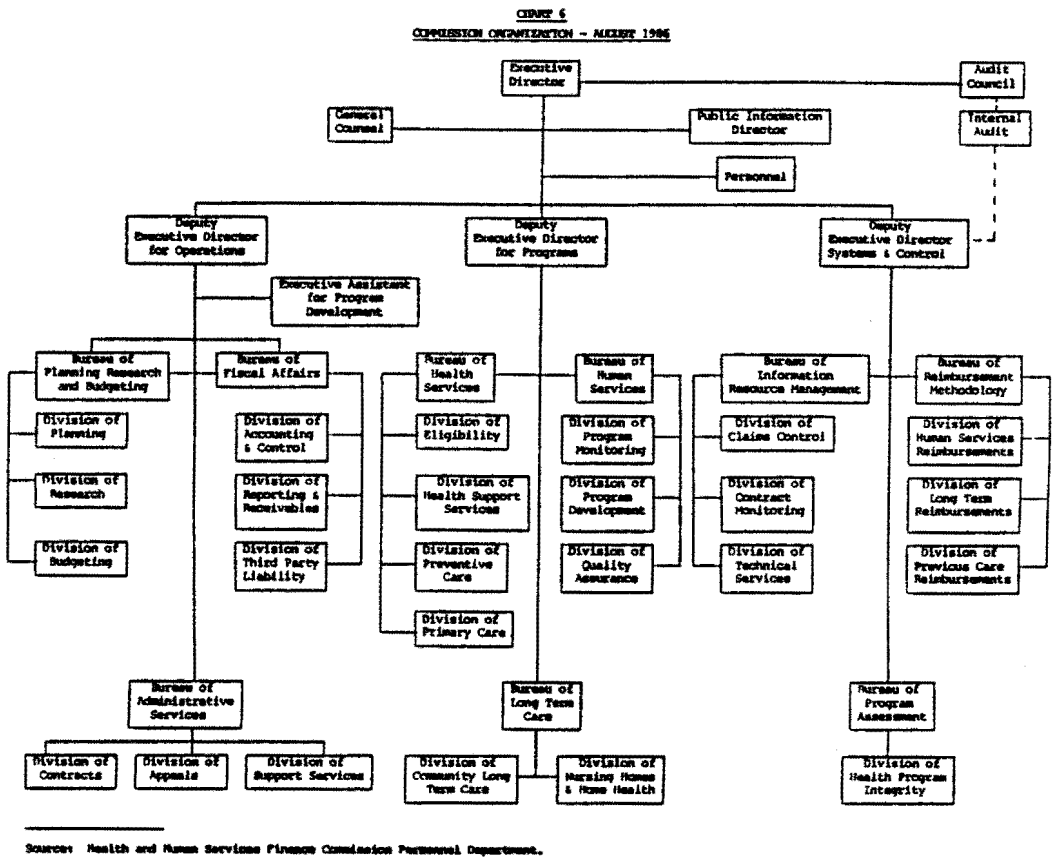
COMMISSION ORGANIZATION - JULY 1985



Source: Health and Human Services Finance Commission Personnel Department.

Significant Changes Between July 1985 and August 1986

During this time, HHSFC management made changes to the organizational structure of the agency. The position of Public Information Director which reported to the Executive Director was created. Within the Office of Operations, Research was created as a separate department. The Department of Rate Setting was expanded to form the Bureau of Reimbursement Methodology. Certain functions were removed from the Bureau of Health Services (see Chart 6).



Source: Health and Human Services Finance Commission Personnel Department.

Significant Changes Between August 1986 and January 1987

The position of Executive Assistant for Technical Assistance and Evaluation was created in October 1986. This position reported directly to the Executive Director.

In addition, the Office of Systems and Controls was "unestablished." This office had been created in December 1985. The reporting responsibility of the Program Information Coordinator, added in October 1985, was shifted from the Office of the Executive Director to the Deputy Executive Director for Operations.

Major Reorganizations Between January 1987 and March 4, 1987

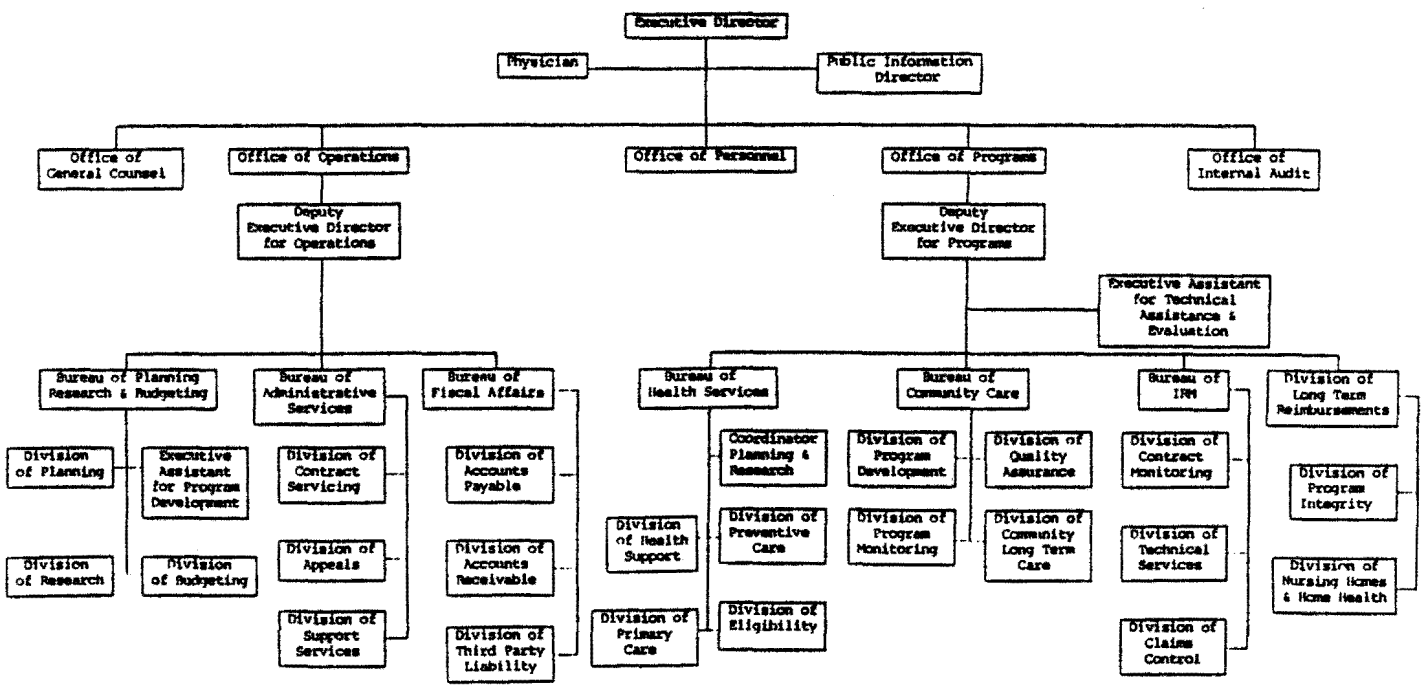
A December 1986 letter to the Audit Council from HHSFC's personnel division stated:

> ...the structural changes made have served to be more efficient and facilitates the Commission's operations and services.

However, the agency was substantially reorganized three months later. The Office of the Executive Director was altered in several ways. The position of the Executive Assistant for Technical Assistance and Evaluation (created in October 1986) was shifted to the Deputy Executive Director for Programs. The Public Information Coordinator was shifted from reporting to the Executive Assistant for Program Development to the Executive Director. Additionally, a vacant auditor position will be reclassified as a physician to report to the Executive Director. The restructuring in March resulted in the Commission having two Deputy Executive Directors in charge of the majority of the agency's functions (see Chart 7).

CHART 7

COMMISSION ORGANIZATION - MARCH 4, 1987



Source: Health and Human Services Finance Commission, Personnel Office.

The Office of Programs underwent a substantial number of changes. The Bureau of Long Term Care was deleted. The

Division of Nursing Homes and Home Health became a distinct Division which reported to the Deputy Executive Director. Community Long Term Care, a Medicaid program, was shifted to the Bureau of Human Services, administrator for the SSBG program. This Bureau was renamed the Bureau of Community Care. The functions of Long Term Care Reimbursements and Program Integrity were shifted as two distinct Divisions. The Director of Accounting who was responsible for the Bureau of Reimbursement Methodology was transferred to report to the Audits Manager of Internal Audits. This move resulted in the Director of Accounting losing supervisory responsibility for about 16 individuals. Also, he now reports to an individual he supervised until December 1986. The Bureau of Information Resource Management (IRM) was shifted intact to the Office of Programs.

Shifting of Top Management

Organizational instability is also illustrated by top management demotions and resignations. The Audit Council reviewed 11 individuals who have held top executive positions. Of these 11, four (36%) have resigned and six (55%) have been demoted. (One individual was demoted and later resigned.) Two of the 11 individuals have not resigned or been demoted.

Reasons for leaving given by the top management included:

- "Yesterday...you requested my resignation or you would rewrite my position description and downgrade me to a secretary."

- "The Commission personnel...exhibit a low state of morale and frustration.... The primary reason for this is a lack of top management decisiveness.... Top management, in many situations, agrees to a plan of action...and then 'waffles' by changing direction many times."

- Another individual cited new management as a factor that might have prevented his leaving HHSFC.

Altering the job responsibilities for six individuals resulted in demotions. A demotion is considered to be either a reduction of responsibilities because of a reorganization or a reduction to a less important position. These demotions may not be considered "grievable" under the state employee merit system. The following are examples of several demotions:

- One Deputy Director was responsible for all agency functions which did not report directly to the Executive Director. He was made Deputy Executive Director for Programs which resulted in loss of supervisory responsibilities for planning, administrative services, and fiscal affairs.

- Another individual who reported to the Executive Director was moved to report to a management committee. This person was later transferred to a position under the supervision of the Executive Director, but his supervisory and job responsibilities were altered. He was later transferred to report to a Deputy Executive Director.

- Three individuals at the beginning of their employment with HHSFC reported directly to the Executive Director. Reorganizations shifted their positions to report to a Deputy Executive Director.

Shifting of top management personnel can lead to personnel problems at HHSFC. An employee survey administered by the Audit Council revealed problems in several areas which can be attributed to turnover or frequent restructuring of executive level management.

RECOMMENDATION

HHSFC SHOULD ESTABLISH AN EFFECTIVE AND STABLE WORK ENVIRONMENT FOR THE AGENCY'S EMPLOYEES.

HHSFC Employee Survey

The Audit Council surveyed HHSFC employees in the fall of 1986 to gauge job satisfaction and to identify noteworthy areas and/or problems in the agency's operations (see Appendix B). This survey was conducted when the agency

was approximately 2½ years old. Of 252 surveys distributed, 146 were returned for a 58% response rate.

A University of South Carolina public administration professor who specializes in personnel management has stated:

> Although there is no proven level or percentage of employee dissatisfaction in management literature which indicates a significant problem...dissatisfaction of greater than 40% would clearly demonstrate to me that there is a management problem in those areas. Whether the survey responses indicate an actual or perceived dissatisfaction, there is still strong evidence of a management problem.

Management and Personnel Practices

Many (53%) employees did not believe that HHSFC is a well-managed agency. Additionally 64% indicated that employee morale is low. A majority of HHSFC employees reported that personnel practices are unfair (58%) and that promotion policies do not emphasize merit (59%).

Organizational Structure

According to 41% of the respondents, the organizational structure of HHSFC does not promote efficiency and effectiveness of operations. Employees indicated that divisions within HHSFC are not treated fairly in terms of staffing (62%), workload (57%), or employee compensation (60%).

Communications and Teamwork

Most of the respondents indicated that improvement is needed in the teamwork between divisions of HHSFC (75%) and in the relationship between HHSFC and other state agencies (57%). Forty-nine percent stated that a lack of coordination and communications with other divisions and supervisors hurts the efficiency and effectiveness of the

agency. Additionally, 40% perceived a problem in communications between divisional staff and executive staff.

Job Satisfaction

Most respondents (80%) liked and enjoyed their work at HHSFC. Most (63%) felt connected with a successful office which renders good service. The creation of HHSFC has improved the administration of the Medicaid and Social Service Block Grant programs in South Carolina, according to 58% of the respondents.

Employees indicated that their immediate supervisor is given the proper amount of authority. Satisfaction with supervisors was expressed in the areas of: evaluation for the performance of specific job objectives (56%); encouraging suggestions for improving agency operations (64%); and being informed about issues which affect their work (56%).

Good communications among divisional staff was reported by 58%, and 56% stated that the policies and organizational structure of the agency have been clearly explained.

RECOMMENDATION

HHSFC SHOULD REVIEW ITS PERSONNEL PRACTICES TO ENSURE THAT THEY ARE FAIR TO EMPLOYEES. IN ADDITION, HHSFC SHOULD WORK TO IMPROVE THE COMMUNICATION AND TEAMWORK BETWEEN DIVISIONS WITHIN HHSFC AND ALSO WITH OTHER STATE AGENCIES.

Use of Temporary Employees

HHSFC has hired temporary employees to provide accounting, appeals, clerical, computer, consulting and other services. The following problems were found.

Temporary Employees Employed More Than Six Months

Of 140 temporary employees hired between May 1984 and January 1987, 17 (12.1%) were employed longer than six months in violation of state law. One temporary, hired to work in the appeals section, was employed for almost two years. In addition, as of January 1987, two of the 17 were still employed by HHSFC. These two have been employed an average of nine months. The 15 former temporary employees were employed an average of eight months.

Section 8-17-320 of the South Carolina Code of Laws defines a temporary as an employee hired "to fill a position for a period not to exceed six months." State Regulation 19-707.03 defines a temporary employee as a person who fills a position "established for a period not to exceed 6 months."

Temporary Employees Paid Above Minimum

Between May 1984 and January 1987, 21 (15%) of 140 temporary employees hired were paid over the minimum salary for their positions in conflict with HHSFC "practice." These 21 employees were paid an average of 31.4% above the minimum, at a cost of approximately $40,000. In 19 of the cases, no justification for employing the individual above the minimum could be found in the file.

In one case, a physician hired as a part-time consultant was paid $50 per hour. This was 107.4% higher than the minimum salary of $24.11 per hour for the position. During the time the physician was employed as a temporary, HHSFC had a Physician II position available but did not fill it. In July 1986, the physician was taken off the temporary roster and hired on a contractual basis for $50 per hour. This contract extends through June 30, 1987.

HHSFC does not have a standard policy on the use of temporaries. However, according to agency officials, it is agency "practice" that a temporary employee be paid an hourly rate determined:

> ...by dividing the minimum of the pay range by 2080, the number of hours worked per year based on a 40 hour work week.

Staff Recommendations on Use of Temporary Employees

HHSFC management has not implemented staff recommendations on the use of temporary employees. Detailed policies and procedures are needed to ensure that state laws and regulations are being complied with and that the agency's personnel needs are properly represented.

In June 1986, HHSFC staff made recommendations to the Executive Director concerning the use of temporaries. These recommendations included:

- Performing a needs assessment, and certifying that funds are available prior to hiring a temporary employee.
- Obtaining temporary employees from employment agencies and paying them from contractual funds. (The state has a contract with a private company to provide temporary services paid from contractual funds.)
- Obtaining temporary employees used to perform the functions of a vacant FTE through Human Resource Management and paying them from personal services funds.
- Approving employment of temporary employees on an emergency basis or for work overloads by the Executive Director. (Currently, any member of the executive staff can hire temporary employees without prior approval.)

Staff added, "these matters warrant immediate attention." As of May 1987, none of these recommendations had been addressed by the Executive Director.

RECOMMENDATIONS

HHSFC SHOULD COMPLY WITH STATE STATUTES BY NOT EMPLOYING TEMPORARY EMPLOYEES LONGER THAN SIX MONTHS.

HHSFC SHOULD DEVELOP A STANDARD POLICY ON THE USE OF TEMPORARY EMPLOYEES. THE POLICY SHOULD INCLUDE AT A MINIMUM:

- THAT THE CIRCUMSTANCES UNDER WHICH A TEMPORARY EMPLOYEE CAN BE HIRED WILL DETERMINE WHETHER THEY WILL BE PAID FROM CONTRACTUAL OR PERSONAL SERVICES FUNDS.
- THAT TEMPORARY EMPLOYEES HIRED USING CONTRACTUAL FUNDS BE OBTAINED FROM AN EMPLOYMENT AGENCY IN COMPLIANCE WITH THE PROCUREMENT CODE.
- THAT A PAY RATE FOR ALL TEMPORARY EMPLOYEES HIRED USING PERSONAL SERVICES FUNDS BE ESTABLISHED WITH A PROVISION THAT ANY EXCEPTIONS TO THE PAY RATE SHOULD BE JUSTIFIED IN WRITING AND APPROVED BY EITHER THE EXECUTIVE DIRECTOR OR HIS DESIGNEE.
- THAT THE PERSONNEL DIRECTOR BE RESPONSIBLE FOR THE RECRUITMENT AND MONITORING OF TEMPORARY EMPLOYEES.

CHAPTER IV
FOLLOW-UP ON PREVIOUS REPORTS

The following outlines the status of other problems addressed in previous Audit Council reports.

Status of MMIS Recommendations

In February 1985, the Legislative Audit Council recommended that the state's Medicaid agency, then DSS, initiate an RFP (request for proposal) to determine if Medicaid claims processing could be performed in a more cost-effective manner. Later that same year, a University of South Carolina-based consultant addressed the limitations of MMIS (the state's Medicaid claims processing system) as an information management system and made recommendations, including the acquisition of a new MMIS system. HHSFC has not implemented the recommendation.

In 1986, HHSFC solicited bids and entered into a contract for peripheral functions of the MMIS. However, a new MMIS system was not acquired to replace the present one, which was developed between 1979 and 1981.

HHSFC has established priorities for several major enhancements to the existing MMIS system including development of Third Party Liability (TPL), EPSDT (Early Periodic Screening, Diagnostic and Treatment), Nursing Home Payment subsystems, and rewriting the SURS (surveillance and utilization review) subsystem. The agency has missed the federally mandated deadline for developing such a system (see p. 45). The SURS program identifies providers whose patterns of claims may indicate fraud or abuse. The subsystem has not been updated to take into account several significant changes in the administration of the South Carolina Medicaid program. HHSFC indicated that by late June 1987, plans for a contract to correct SURS problems had been drafted. According to HHSFC, by not updating SURS, it is difficult to track suspected abuse.

Another problem with the MMIS system is the large backlog of requests for system changes. Because of the age and structure of the MMIS, it is not flexible in meeting new management information needs. According to HHSFC staff, much of the system was written in a way that makes it time-consuming to modify.

The need for an automated link between the MMIS system and the agency's accounting system (MARC) was pointed out in the 1985 consultant report. Data is now transferred manually between the two systems. Although this is one of the agency's high priorities, no specifications have yet been written.

According to the Region IV Office of the Health Care Financing Administration (HCFA), the present South Carolina claims processing costs are much higher than they should be. HHSFC officials state that the cost of a fiscal agent would probably be lower than present costs. (A fiscal agent is a consultant that develops, administers, and operates MMIS systems for one or more states.)

HCFA officials stated they will pressure HHSFC to obtain a new system because of the age and cost of the existing one. HCFA also stated that when several components of a system need to be rewritten, as is the case in South Carolina, it is less expensive to obtain a new system. In addition, lower per unit costs can be expected when a fiscal agent operates several MMIS systems.

Furthermore, according to HCFA, the Commission will lose federal matching funds because of deficiencies in the MMIS system. For example, because the Medicaid data resolution function is not sufficiently automated, HHSFC will be reimbursed for this function at only 50%, rather than at the enhanced funding rate of 75%. Over the three-year life of the current MMIS contract, South Carolina will lose almost $400,000 of federal funds for this function.

RECOMMENDATIONS

HHSFC SHOULD PLAN TO ISSUE A REQUEST FOR PROPOSAL (RFP) FOR A FISCAL AGENT AND NEW MMIS SYSTEM. PREPARATIONS SHOULD BEGIN SO THAT AN RFP WILL BE READY BEFORE THE EXPIRATION OF THE PRESENT "FRONT-END" AND MMIS CONTRACTS ON JUNE 30, 1989.

CONTRACT EFFORTS SHOULD BE CLOSELY COORDINATED WITH HCFA TO ENSURE A TIMELY AND WELL-WRITTEN RFP.

HHSFC SHOULD ENSURE THAT THE MMIS AND MARC SYSTEMS ARE INTEGRATED.

Budgets

In the 1985 Audit Council report on DSS, the Council recommended that the agency require managers to notify the budget division before transferring funds between cost centers within an object code. Another recommendation called for managers to obtain written approval from the budget division before exceeding major object code budgets. HHSFC has developed a form for managers to submit to the budget department for these purposes. However, the Council found the following problem in the budget division at HHSFC.

Budget Monitoring Needs Improvement

The budget division does not have proper monitoring controls in place to administer the agency's $4 million administrative budget. Managers are not provided with monthly budget reports to keep them apprised of current revenues and expenditures. Additionally, the budget division does not require managers to submit monthly status reports.

Currently, the administrative budget at HHSFC is managed by managers who manually keep a commitment log of all expenditures. These expenditures are recorded against the division's initial budget allocation. The budget division cannot determine if managers exceed their budget allocations because the commitment logs are not provided to the budget office.

When the budget division and managers are without timely essential financial information, it is difficult for managers to adequately administer their budgets. Also, the budget division cannot properly prepare budget forecasts and analyze expenditures with incomplete information. Further, manual accounting is not an efficient and effective system to manage the agency's $4 million administration budget.

RECOMMENDATIONS

HHSFC SHOULD REQUIRE THAT THE BUDGET DIVISION OVERSEE THE OPERATING BUDGET OF THE AGENCY.

THE BUDGET DIVISION, IN CONJUNCTION WITH THE BUREAU OF FISCAL AFFAIRS, SHOULD DEVELOP A MORE EFFECTIVE AND EFFICIENT METHOD TO MONITOR DEPARTMENT BUDGETS AND DISCONTINUE THE MANUAL KEEPING OF ACCOUNTS.

THE BUDGET DIVISION SHOULD PROVIDE MANAGERS WITH A MONTHLY REPORT OF THE STATUS OF REVENUES AND EXPENDITURES.

Nursing Home Allowable Costs

In its 1982 and 1985 reports, the Council recommended that the agency adequately define allowable costs pertaining to automobiles, travel, legal fees, and other areas. In 1984, HHSFC amended the State Plan for Medicaid to specify

allowable costs for automobiles, legal fees, compensation, and other vital areas.

Intermediate Patients in Skilled Beds

In its 1977, 1982, and 1985 reports, the Council reported that Medicaid was paying more than necessary to care for patients classified as intermediate. Medicaid was paying $4 million to $10 million per year more than necessary to keep intermediate care patients in more costly skilled beds. In July 1986, the Commission implemented a new payment system designed to provide incentives for nursing homes to accept skilled patients. Although the system is new and a thorough analysis has yet to be conducted, HHSFC documents indicate that this system will cost more than the previous system. This new system is not in accordance with previous Audit Council recommendations.

To help keep patients out of nursing homes, HHSFC has implemented the Community Long Term Care program. This program provides less expensive, community-based care for clients who may qualify for placement in nursing homes.

Cost Containment in the Drug Program

In its 1985 report, the Council reported that a pricing system to require use of less costly drugs was needed. At that time, records indicated at least $500,000 could be saved by enacting a maximum allowable cost system for drugs with generic equivalents. Agency records indicate that HHSFC has begun implementation of a system to contain drug costs. For example, action taken in August 1986 resulted in savings to the drug program of over $200,000 annually. Agency officials stated that they will continue to monitor drugs to ensure costs are contained.

Patient Recertifications

In the Audit Council's 1985 report, it was noted that federal regulations pertaining to the recertification of

patients for continued participation in Medicaid were not being enforced. The state faced federal sanctions of over $600,000 for lack of enforcement. HHSFC officials indicate that the agency is now recouping funds paid for clients not properly certified, and is therefore in compliance with federal regulations.

Medicaid Error Rates

In its 1985 report, the Council reported that the state's Medicaid program faced reductions in federal funding due to excessive errors in determining eligibility. (An error means that an ineligible client is receiving Medicaid benefits.) DSS is the agency responsible for establishing client eligibility. DSS records pertaining to error rates indicate that since 1984, error rates have been below the federal tolerance level. Because DSS has lowered the number of errors, the Medicaid program does not face a loss of federal funds at this time.

Third Party Liability Unsolicited Refunds

In its 1985 report, the Council recommended that unsolicited TPL refunds be further investigated to determine the reason for the refund. This information is needed for the agency's computer system to ensure that Medicaid clients with other insurance benefits are known. Agency officials have indicated that forms were developed for providers to complete when returning TPL funds. The agency follows up on unsolicited TPL refunds received.

Insurance Information on Medicaid Cards

Agency officials indicated that they have instituted a new form for DSS workers to use when collecting Medicaid client insurance information from clients. The agency indicated that training was provided in how to complete the form. This is important because to bill a Medicaid client's

insurance company, a provider needs information such as the company and the insurance policy number.

Audits of Hospitals

The Council recommended that hospitals be audited to determine if they held unreported TPL funds due HHSFC. This has not been done. In Georgia, ten providers were audited and over $500,000 of unreported TPL funds were found. This has not been done in South Carolina because HHSFC officials have a differing view on the profitability of reviewing hospital accounts for unreported TPL. Without at least a "spot check" of some hospitals, HHSFC cannot ensure that hospitals are properly reporting TPL funds owed the agency.

Second Surgical Opinions

In its 1985 report, the Council recommended that the agency enact a mandatory second surgical opinion program. This program would require clients to obtain a second medical opinion before receiving surgery. State law was then enacted to require a second surgical opinion program. In January 1986, HHSFC enacted a statewide mandatory second surgical opinion program.

RECOMMENDATION

HHSFC SHOULD CONTINUE TO IMPLEMENT COST CONTAINMENT MEASURES THAT DECREASE MEDICAID COSTS WITHOUT REDUCING CLIENT SERVICES.

APPENDICES

APPENDIX A

SUMMARY OF MAJOR PROBLEMS IDENTIFIED IN THIS REPORT[1]

Unauthorized Expenditures	
Inpatient Rate Increase	$14,600,000
Outpatient Rate Increase	4,500,000
Contracts Awarded in Violation of Law	
Sole Source Contracts Not Reported	$ 818,000
Inadequate Justification for Sole Source	375,000
State Agency Contracts Not Reported	256,000
Inaccurate Budget Deficit Information	
Overpayments Not Properly Reported	$ 4,400,000
Revenue Managed in Violation of Law	
Revenue Not Returned to General Fund	$ 3,400,000
Expenses Which Could Have Been Avoided if Past Recommendations Were Implemented	
Curtail Nursing Home Leases Since 1984	$ 3,500,000
Improve Third Party Liability	1,000,000
Other Financial Problems or Improper Expenditures	
Finalize Backlog of Audit Appeals	3,300,000
Temporary Employees	40,000
TOTAL	$36,189,000

[1] Includes state, federal, medically indigent assistance, and other funds discussed throughout the report.

LEGISLATIVE AUDIT COUNCIL

STATE OF SOUTH CAROLINA

620 BANKERS TRUST TOWER
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE:
803-758-5322

September 19, 1986

Dear HHSFC Employee:

At the request of the South Carolina General Assembly, the Legislative Audit Council is conducting a management and performance audit of the Health and Human Services Finance Commission.

To help us conduct this review, we are asking HHSFC employees to participate in this survey. Enclosed is a questionnaire about HHSFC policies and operations, and about your job satisfaction. We would appreciate your honest and thoughtful answers.

All communications to us, by survey, telephone or otherwise, will be held in strict confidence. In addition you may answer the survey anonymously, if you prefer.

Please return the completed questionnaire to the Audit Council by October 3, 1986 in the enclosed, postage-paid envelope. If you have any questions, or would like to discuss the Audit Council review further, please call Perry Simpson or Sara Schechter-Schoeman of my staff at 734-1320. Thank you for your help.

Sincerely,

George L. Schroeder
Director

/mr
Enclosures

HEALTH AND HUMAN SERVICES FINANCE COMMISSION

EMPLOYEE SURVEY

(n = 146)[1]

Please respond to each statement by showing how much you personally agree or disagree with it, using the following codes and circling only one for each statement.

1	2	3	4	5
DEFINITELY AGREE	INCLINED TO AGREE	UNDECIDED NO RESPONSE	INCLINED TO DISAGREE	DEFINITELY DISAGREE

% Responding						
1	2	3	4	5	N/R	
44.5	34.2	5.5	13.0	2.1	.7	1. I like and enjoy my work here.
6.2	17.2	13.1	23.3	40.5	0	2. Morale within HHSFC is high.
13.1	19.9	11.7	31.5	24.0	0	3. I am kept in the dark about issues which affect my job.
5.5	19.2	17.8	24.0	33.6	0	4. HHSFC is fair in its personnel practices.
4.8	13.7	22.6	28.1	30.9	0	5. The promotion policies of HHSFC emphasize merit.
22.6	32.9	12.4	15.8	16.5	0	6. Sufficient effort has been devoted to reviewing and evaluating my performance in terms of specific objectives established for my job.
41.1	21.9	9.6	12.3	14.4	.7	7. My immediate supervisor encourages me to contribute suggestions and ideas for improving the way this agency operates.
31.5	30.9	17.8	11.7	8.3	0	8. I believe I am connected with a successful agency which renders good service.
9.6	17.1	19.9	23.3	28.8	1.4	9. HHSFC is a well-managed agency.
26.7	30.8	15.1	19.2	7.5	.7	10. My immediate supervisor is given the proper amount of authority to carry out his job function.
18.5	31.5	17.8	16.5	15.8	0	11. I think higher management backs up the decisions of my immediate supervisor.
						12. Communications are good:
7.5	21.2	39.7	17.8	13.7	0	A. Between executive staff and the Commission.
9.6	26.0	24.7	22.6	17.1	0	B. Between executive staff and divisional staff.
16.4	41.8	14.4	17.8	9.6	0	C. Among divisional staff.
21.9	35.6	25.3	11.0	5.5	.7	13. The creation of HHSFC has improved the administration of the Medicaid and SSBG programs in South Carolina.

[1]Of 252 surveys sent out by the Audit Council, 146 HHSFC employees responded.

% Responding							
1	2	3	4	5	N/R		
6.2	31.5	33.6	15.8	9.6	3.4	14.	The transition from DSS to HHSFC was handled smoothly and efficiently.
8.2	26.7	22.6	21.9	17.8	2.7	15.	The organization structure of HHSFC promotes efficiency and effectiveness of operations.
26.7	45.9	11.6	10.3	2.7	2.7	16.	Improvement is needed in the teamwork between divisions within HHSFC.
23.4	34.0	24.8	13.5	4.3	3.4	17.	Improvement is needed in the relationship between HHSFC and other State agencies.
						18.	Divisions within HHSFC are treated as fairly as one another in terms of:
6.4	17.7	14.2	32.6	29.1	3.4		A. Staffing
6.2	15.8	19.2	25.3	30.1	3.4		B. Workload
6.2	15.8	15.8	24.7	32.9	4.8		C. Employee compensation
							D. Other resources (specify) 13.0%.
						19.	The following hurt the efficiency and effective operations of this agency:
14.4	32.2	22.6	17.1	8.9	4.8		A. Lack of coordination and communications with other divisions and supervisors.
10.3	21.2	22.6	27.4	13.7	4.8		B. Lack of skills and training.
22.0	34.9	15.1	15.8	8.2	4.1		C. Lack of sufficient staff.
15.1	27.4	12.3	28.8	9.6	10.8		D. Lack of adequate facilities and equipment.
							E. Other (specify) 13.0%.
23.3	30.8	9.6	19.2	13.7	3.4	20.	The policies and organizational structure of this office have been clearly set forth and explained.
2.7(Yes)		93.2(No)			4.1	21.	Has anyone from the agency tried to influence your response to this questionnaire?
6.2(Yes)		89.0(No)			4.8	22.	Has anyone from the agency tried to discourage your cooperation with the Audit Council during this audit?

If answers to #21 and #22 are yes please explain:

(optional) 23. I work in the Bureau of:

7.5	A.	Planning, Research, and Budgeting	E.	Health Services	2.7
6.2	B.	Administrative Services	F.	Human Services	21.2
6.8	C.	Fiscal Affairs	G.	Long Term Care	8.9
1.4	D.	Information Resource Management	H.	Program Assessment	8.2
4.8	I.	Reimbursement Methodology			
32.2	No Response				

(These questions were "open-ended"; surveyed employees elected to respond as they wished.)

USE BACK OF PAGE IF MORE ROOM IS NEEDED FOR YOUR RESPONSE TO THE FOLLOWING QUESTIONS.

24. What factors help you to get your job done as you think it should be done? Is there anything you have been able to do that you consider outstanding or innovative?

25. What problems or obstacles keep you from doing your job as effectively as you would like?

26. Which aspects of your job would you like to see changed? Do you have any suggestions to improve the efficiency and/or effectiveness of your work unit, or of the Commission?

APPENDIX C

GLOSSARY

APD - advanced planning document; planning document which agency must submit to, and have approved by, HCFA prior to agency's procurement of a system funded by Medicaid.

certification -

a. of a system: stage at which HCFA accepts that a new computer system is operational.

b. to conduct procurements: procedure by which DGS allows agencies to make direct procurements up to a specified dollar amount (see South Carolina Code §11-35-1210).

c. of funds: approval by Director of Fiscal Affairs Division of amount and source of funds; part of process for entering into contracts.

competitive procurement - method of procurement by which an agency awards contracts on the basis of sealed bids or proposals.

DGS - Division of General Services of the state Budget and Control Board.

fiscal agent - contractor that develops and operates MMIS systems for one or more states.

HCFA - Health Care Financing Administration - of the federal Health and Human Services Department, the administrator for the Medicaid program.

Medicaid - Title XIX of the Social Security Act designed to provide medical assistance programs for those unable to afford regular medical services, these services are provided with state and federal funds. In South Carolina, these programs include Early Periodic Screening, Diagnostic and Treatment (EPSDT) and the Community Long Term Care system.

Medicare - Title XVIII of the Social Security Act designed to provide medical care for the aged.

MMIS - Medicaid Management Information System: automated system for paying Medicaid claims and providing management information.

MMO - Materials Management Office of the Budget and Control Board.

Procurement Code - South Carolina Code §11-35-10, et seq.; prescribes procedures that government agencies must follow when entering into contracts for goods and services.

provider - any individual or entity furnishing Medicaid services under an agreement with the Commission.

RFP - request for proposal; document issued by an agency to solicit proposals from potential bidders in a competitive procurement (see South Carolina Code §11-35-310).

sole source procurement - contract awarded without competition when agency determines that there is only one source for goods or services; is an exemption to the competitive bid requirements of the Procurement Code.

SSBG - Social Services Block Grant Program - Title XX of the Social Security Act which seeks to allocate resources in such a manner to assist citizens of the state to achieve, restore, and maintain a level of health, social and economic well-being, and dignity so that they can function to the maximum level of their capabilities.

State Plan - comprehensive written commitment by HHSFC to administer or supervise the administration of a Medicaid program in accordance with federal requirements.

APPENDIX D

State of South Carolina

State Health And Human Services Finance Commission

P. O. Box 8206, Columbia, South Carolina 29202-8206

September 30, 1987

Mr. George L. Schroeder, Director
Legislative Audit Council
620 NCNB Tower
Columbia, S.C. 29201

Dear Mr. Schroeder:

The Health and Human Services Finance Commission (HHSFC) has asked me to convey our official response to the Legislative Audit Council's (LAC) management review of this agency.

Your report began with these two sentences: "Act 83 of 1983 created the Health and Human Services Finance Commission (HHSFC) to provide for a more effective and efficient delivery of health care and human service programs. This Act mandated that the administration, planning, and financing of health and human services programs be improved."

This Commission firmly believes that the creation of HHSFC by the South Carolina General Assembly has enhanced the delivery, effectiveness and efficiency of these vital programs.

The legislative initiative that divided mission responsibilities between two state agencies has enabled HHSFC to concentrate upon planning and financing South Carolina's health and human services programs. The arrangement frees the Department of Social Services to focus upon service delivery. We believe that recipients, providers and the taxpayers have benefited from the philosophy that vested the responsibility for planning and financing of health and human services in this agency, while specifically charging others to deliver services to clients.

HHSFC reached its third birthday on July 1 of the current calendar year. That milestone found all originally envisioned program elements, support activities and related systems finally having been transferred from other agencies into the direct control of HHSFC.

As the LAC indicates in the introduction to its report: "For FY 86-87, HHSFC was appropriated $537,652,115, of which $91,350,784 (17 percent) was state funds. The agency was authorized 268 full-time equivalent employees; in February 1987, HHSFC had increased to 305 positions. ... Health services programs accounted for $482,185,833 (89.6 percent) of the appropriation. ... The human services programs were appropriated $50,672,551 (9.4 percent) and administration and employee benefits received $4,793,731 (1 percent)."

Behind the statistical enormity of these numbers lie the individual stories of 235,000 of South Carolina's most disadvantaged residents, ranging in age from the very old to the unborn. HHSFC does its work by contracting with others to provide those eligible persons who are sick, handicapped and/or aged with prescribed therapeutic medicines, physician's care, hospitalization, nursing home care, meals delivered to their homes, and learning opportunities in child development centers.

Each year HHSFC executes 2,000 contracts with public and private providers, including other state agencies and the majority of South Carolina's physicians, hospitals, nursing homes and pharmacists. That is the equivalent of about one contract each working hour, as HHSFC is responsible for the provision of $10 million worth of health care and social services each week. HHSFC is also charged with the duty of ensuring that the care is quality care, and rendered to only those truly in need of it.

It is our hope that the LAC's findings will be weighed by the readers of this report in light of the immensity of the effort and the extreme complexity of the Medicaid and Social Service Block Grant programs. For this reason we have serious concerns about the material labelled Appendix A and displayed on page 72 of this report.

Appendix A can be easily misunderstood by the casual reader. These numbers represent dollars involved with an issue or a program; it does not follow that in each case there was any loss to the State. In many instances what is at issue is the administrative procedure by which the dollars were spent.

A series of contract figures is set forth as having been expended wrongly, but there is no qualifying statement to the effect that what the LAC is questioning is the procedure by which those monies were spent, and in many cases those funds would have been expended anyway for absolutely valid purposes.

Likewise, items regarding payments for hospital services and nursing home leases are presently involved in protests or litigation by providers and the dollar amounts associated with these items are still in question.

Also there is no acknowledgement that revenue not returned to the general fund in a timely fashion was, in fact, legitimately expended with the permission of the Budget and Control Board (B&CB).

In some instances qualifying distinctions are made elsewhere in the body of the report, such as in the LAC's discussion of the delinquent accounts held by HHSFC which noted that not all the delinquent debts held by the agency may be collectible. However, the casual reader is not apt to relate these explanations to the figures in Appendix A, page 72.

In its report summary on pages two, three and four, LAC lists several major problems it encountered in its year-long survey of HHSFC. These are addressed separately as follows:

o "HHSFC did not present accurate information to the General Assembly concerning its $24 million projected Medicaid deficit. The agency did not properly report information indicating the deficit would be less."

In January 1987, the staff of HHSFC reported that the current rate of spending would produce a deficit for the fiscal year which was originally estimated to be approximately $24 million and the Commission took immediate action to reduce expenditures. As additional information was received, it was promptly analyzed for trends concerning client utilization of Medicaid services with the deficit estimate being adjusted. Plans to reduce the potential deficit were developed and were reported promptly to the B&CB. Those plans were approved by the Budget & Control Board and progress reports were made to that body on a monthly basis.

The adjusted shortfall estimate of $19.7 million and the proposed actions to avoid this potential deficit turned out to be quite accurate, since the agency ended its fiscal year by lapsing one-tenth of 1 percent of its budget ($187,488) to the general fund.

o "In violation of Section 159 of the FY 85-86 Appropriation Act, HHSFC maintained over $3.4 million in two accounts. These funds could be matched with federal funds to provide over $12 million to apply towards the reported $24 million deficit. While maintaining and not reporting this revenue, the agency requested exemption from mandated budget cuts to help resolve its projected deficit."

It is correct that this agency held $3.4 million in two accounts and we acknowledge that these funds should have lapsed to the general fund as of June 30, 1986. When these monies were received they were placed in an earmarked account which does not automatically lapse to the general fund at the end of the fiscal year. Through error, the Comptroller General was not notified to lapse these funds and the balances were held by HHSFC. Subsequently permission was obtained from the B&CB to utilize these funds to obtain matching federal funds which were then used to offset a portion of the projected deficit.

o "HHSFC improperly raised inpatient hospital rates by approximately $14.6 million. Also, HHSFC improperly increased the rates for outpatient hospital services. This increase cost the Medicaid program $4.5 million. These increases caused the agency to overspend line item appropriations and report a projected budget deficit."

The LAC has questioned this action from two perspectives: 1) the legality of the decision and, 2) the procedure by which it was made. As for the legality, the Deputy Attorney General attached to HHSFC disagrees with the LAC's interpretation of the law, because the initial rates were put into effect under the new methodology several months after commencement of the state's fiscal year. We believe his determination is correct, in that the

act of increasing the hospital rate was not in conflict with the law. In view of the LAC's interpretation that the Commission could not adjust hospital rates under the foregoing conditions we agree that this particular law (Section 44-6-140 of the S.C. Code of Laws) should be amended to clarify legislative intent.

As to the second question, whether the executive director should have received concurrence from the Commission before implementing rate increases of this magnitude, the LAC states "there are no statutes, regulations, or agency policies which specifically require the Board to vote on rate increases before they are implemented." In retrospect, the Commission and the executive director agree it should have been brought to the Commission for consideration. Internal procedures have been approved to deal with similar situations in the future.

o "From July 1985 to January 1987, HHSFC paid over $188,000 in duplicate claims, detected when providers refunded the payments. In addition, $4.6 million was erroneously paid because of a computer formatting error. ..."

Regarding the $188,000 issue, duplicate payments were made, but these sums did not involve two payments made by HHSFC. In each case one payment was made by HHSFC, the other payment was made by some other entity, such as South Carolina's Medicare intermediary or other third party payors. Steps have been taken to prevent such reoccurrences.

Regarding the $4.6 million, this matter was discovered by HHSFC and all funds were recovered as the LAC indicated in its report. It happened in an extremely complex management information system in which there were hundreds of checks and edits. We have contracted with experts to evaluate the system's checks and edits to see that similar instances will not reoccur.

o "HHSFC has not adequately curtailed nursing home lease costs, including those which outside auditors documented were unreasonable. At least $1.4 million could be saved annually by disallowing increased Medicaid payments caused by 16 lease arrangements."

HHSFC agrees there are 16 existing lease arrangements in which lease costs appear to be excessive. It should be noted that each of these leases was in place prior to December 1981 and they were entered into under rules and regulations which were permissible by the state and federal government at the time. On March 18 of this year, HHSFC modified its policy so as to disallow these payments. However, these nursing homes have filed suit in the state's courts and have obtained a temporary injunction against implementation of the new regulations. If the state prevails and if our policy is completely implemented, the ultimate savings would be approximately $1.4 million annually. Such savings should not be anticipated until this case is finalized.

o "The agency has not taken adequate steps to collect certain delinquent debts (those more than 90 days old). As of November 1986, over $3 million in Medicaid debts were delinquent; the amount collectible is unknown."

It is correct that there are $3.2 million in Medicaid delinquent debts. Some of these debts date back more than a decade and, as the LAC notes, $2.8 million was transferred to HHSFC from the Department of Social Services, which had previously determined the debts to be worthless. This agency has also reviewed these and confirmed that $2.8 million of these debts are worthless. Efforts are being made to collect the balance. Good accounting principles dictate that these debts be written off and steps will be taken through the state auditor's office and the B&CB to remove these debts which are known to be uncollectible. As a matter of clarification, virtually all these debts are known to be uncollectible because of the death of an indigent client, the bankruptcy of a provider or, in some cases, the absence of a former provider where the cost of recovery significantly exceeds the value to be recovered.

o "HHSFC has not resolved over $3.3 million of nursing home and transportation audit appeals. Thirty-two audit decisions, appealed between 1981 and 1985, are awaiting HHSFC action so that recoupment of these funds can begin."

It is true that HHSFC is behind in the appeals process. This is due to two factors: 1) the propensity of individuals to file appeals which, by federal regulation, must be resolved within 90 days and therefore must be given priority over provider appeals and 2) the shortage of appeals staff. Efforts are under way to reduce frivolous appeals and to devise a method to shorten the appeals process. The Commission is investigating means of strengthening policy in this area.

o "HHSFC has no policy or regulation to prevent nursing homes from changing ownership before resolving responsibility for their Medicaid debts. As a result, HHSFC may be unable to recoup Medicaid debts from nursing home owners who sell their businesses."

The Commission agrees that this is a serious loophole and has initiated action which we hope will result in legislation to assess clearly the responsibility for Medicaid debts when nursing homes change hands.

o "Between January 1985 and October 1986, HHSFC did not report over $818,000 of sole source or emergency contracts to state officials as required by Section 11-35-2440 of the State Procurement Code."

It is agency policy to file timely reports. In the first 24 months of the agency, eight were not filed and amended reports are now being filed with the Materials Management Office.

o "HHSFC's justification for sole source contracting has been inadequate. The agency has not solicited bids when other companies were available to provide services."

HHSFC is committed to keeping sole source contracts to a minimum and we will apply stringent criteria to any candidates for sole source contracts of the future.

o "Approximately $256,000 of noncompetitive contracts with state agencies were not reported with cost justifications as required by Section 11-35-1510 of the State Procurement Code."

In a letter dated June 13, 1986, signed by Mr. R. Voight Shealy, Manager, Audit and Certification Section of the General Services Division, State Budget and Control Board, HHSFC was advised, "The Commission was granted an exemption from the Procurement Code for contracts placed with governmental bodies in administering Title XIX of the Social Security Act (Medicaid) and Title XX (Social Services Block Grant)." HHSFC interpreted these exemptions to also relieve the agency of the reports which the LAC has questioned. This interpretation was supported by some of the officials in the Audit and Certification Section of the Budget & Control Board. We have now been advised that this view is not shared by all of the responsible parties in the Division of General Services of the State Budget and Control Board and we are directing additional inquiries to the Materials Management Office and will abide by their decision.

(We will provide a common answer to the following issues cited by the Legislative Audit Council, since they concern one contract. They are:)

o "HHSFC has not reported amended contracts to proper state officials as required by procurement guidelines.

o "Against HHSFC policy, contracts have been awarded without input or oversight from the agency's contract division.

o "Contracts have not been adequately monitored by HHSFC. One contract, for over $570,000, mandated completion within six months. However, HHSFC amended the contract four times, extending the completion to 21 months. Management ordered payments to be expedited despite the fact that reports had not been submitted in a timely fashion. ...

These issues concern the same contract, which was a technically complex one and was handled outside our contracts unit. In retrospect it is clearly recognized that this was a serious error. Steps have been taken to see that all future contracts will be handled by our contracts unit.

o "HHSFC paid one contractor more than the contract allowed and at least 12 contracts were executed after their start date. Some contracts were not signed by HHSFC until the contracts were nearing expiration."

This comment is correct as it relates to the 12 contracts executed after their start date and steps are being taken to minimize such occurrences. In order to continue urgent services to our clients, however, it is occasionally necessary to sign a contract after service has begun. For instance, a hospital that has been under contract may be tardy in signing its new contract. We would not deny our clients service nor want the hospital to deny service to one of our indigent clients. Our policies permit a minimum amount of this to occur, and our policies call for closely monitoring all contracts to assure that payments are not made until a contract is signed.

With reference to the contractor being paid more than allowed, this is incorrect as the contract in question had been amended. The total payments were approximately $10,900 less than permitted under the amended contract.

It is true that, through error, the amendment was not forwarded to the State Auditor's Office and therefore did not have his approval.

o "HHSFC has not completed the plans and resource allocations for the programs it administers. These plans are required by Section 44-6-70 of HHSFC's enabling legislation."

Plans dealing with the Social Services Block Grant have been prepared annually and submitted to the governor for signature. The Medicaid Plan was approved by the Finance Commission on July 15, 1987, along with the State Health Plan.

o "HHSFC has not used positions in the Third Party Liability (TPL) program as required. Six positions specifically appropriated by the Legislature to staff TPL have been used for other agency functions."

This is a correct statement. These positions were lent to other areas with greater priorities. They will be returned to TPL activities after other urgent assignments are completed. We are in compliance with federal regulations and as these resources are returned, the agency maintains its option of reworking processed cases at some future time.

o "HHSFC's internal audit department has not been functional. Audit positions provided by the General Assembly have been transferred to other departments. Also, the audit department has not been provided the independence necessary for objectivity."

It is true that these positions were temporarily utilized for receiving the transfer of the Medicaid Management Information System from the Department of Social Services last November. The audit department is now fully staffed, all procedures are in place and the department is functioning.

o "Since the agency's inception, HHSFC management has repeatedly reorganized its staff. Agency management has shifted, deleted, and reorganized departments, divisions, deputy directors, bureau chiefs, and other personnel. The agency has no long-range plan for properly organizing and utilizing its personnel."

In a new agency, particularly one created by a transfer of personnel from other agencies, a certain amount of reorganization is anticipated and this has occurred. We do recognize that the large number of organizational changes have created concern on the part of our employees and we are dedicated to creating a stable working environment. To this end we have created a committee of the Commission to review procurement and organizational issues.

o "An employee survey indicated that morale was low, the organizational structure does not promote efficiency, and communications need improvement. Also, employees indicated they liked and enjoyed their work and they are connected with an office which renders good service."

We are extremely pleased that a majority of employees surveyed indicated they "liked and enjoyed" their work. They also said that they "felt connected with a successful office which renders good service" and that, "The creation of HHSFC has improved the administration of the Medicaid and Social Service Block Grant programs in South Carolina." This indicates that we have good, dedicated employees, which does not surprise us. We are concerned about some of our employee's negative responses to the LAC's survey and will use the data collected to address shortcomings in our personnel programs.

On pages 38 and 39 of the LAC Report the following comments were included pertaining to minority business plans and reports.

> "HHSFC did not submit required quarterly reports for FY 84-85. ... an MBE utilization plan was submitted for both FY 85-86 and FY 86-87. However, these plans did not receive written approval ... Additionally, quarterly reports were not provided to SMBAO for the first half of FY 85-86 as required."

Prior to July 1, 1986 the accounting function for HHSFC was performed by the Department of Social Services and while the Minority Business Plan was prepared by staff at HHSFC, apparently each agency expected the other to prepare the quarterly report. As a result, quarterly reports were not filed until the accounting system was moved to HHSFC. Quarterly reports have been filed in a timely fashion since the transfer of the accounting system.

It is correct that this agency has not received approval of its Minority Business Plans for FY 85-86 and FY 86-87 but it is also true that we have received no communication from the Small and Minority Business Office of any disapproval of these plans. Because of the passage of time since the filing of these plans, and the fact that quarterly reports pertaining to these plans were filed and accepted, we have assumed that they are in order.

The HHSFC has carefully reviewed the 45 specific recommendations contained in the LAC Report. Of these, 1 is addressed to the B&CB, 2 are specifically for the General Assembly, 1 mentions both the General Assembly and HHSFC and the remaining 41 address the workings of this agency. Of the 42 recommendations which pertain to the activities of HHSFC, 24 are already in some stage of implementation and we concur with the other 18. We would call your attention, however, to the LAC recommendation as follows: "HHSFC should fully implement its lease (Nursing Home) policy." As we have indicated in another area of this response, the implementation of the HHSFC Nursing Home Lease Policy has been attempted and is being contested through litigation. Obviously there is little else we can do until this lawsuit is concluded.

The Finance Commission has attempted to be candid in responding to the LAC audit but findings in this report address only a very small part of the overall activities of HHSFC. We hope that the following information will assist the reader in properly assessing the previously mentioned findings.

This agency began in 1983, when a transition committee was established to make decisions about the transfer of personnel and functions to the new agency. The chairman of the Commission was appointed in the fall of 1983, and the

Legislature elected the other six members in early 1984. By April 1984, these seven persons had completed their first task, the selection of an executive director. Employees began transferring into the new agency within a month.

Services were delivered throughout the change over with few hitches and HHSFC purchased approximately $1.5 billion worth of health care and social services within the last 36 months without a significant audit exception being levied against it by the Federal Health Care Financing Administration.

This has also been an era of new programs - the Medically Indigent Assistance Fund, the statewide expansion of the Community Long Term Care program, the transfer of the Medicaid Management Information System and, additionally, an increase in eligibility criteria for the standard Medicaid program.

All the while HHSFC has worked to fulfill its mandate by implementing innovative cost containment measures that safeguard the delivery of quality care while realizing savings to the taxpayers who fund these vital programs to South Carolina's disadvantaged population.

For example, the infant agency helped negotiate an end to a long-standing suit filed against the state by the nursing home industry, and was able to channel significant portions of the settlement into patient care. Innovations have been made in the way prescription drugs are provided through the Medicaid program, and HHSFC has maintained one of the highest levels of physician participation among any Medicaid program in the Southeast. Quality health care was redirected to less expensive treatment settings by adoption of regulations encouraging providers to utilize outpatient facilities, rather than hospitalizing patients.

Less than a year ago, in November 1986, the agency finally assumed control of the Medicaid Management Information System, a computer system that pays 5 million bills annually. HHSFC completed the transfer in record time, without missing any checks, and promptly began to update the software and other components of a system which had receive little significant maintenance in several years.

The Commission and its staff recognize the agency has some shortcomings, but these will be overcome as the HHSFC implements the corrective action plan and other LAC recommendations for improving the financing, management and planning of health and human services.

We appreciate the effort of the LAC staff in identifying these problems and we pledge our strongest effort to remedying them promptly.

Sincerely,

William T. Putnam

William T. Putnam
Chairman

pdl